**South Carolina General Assembly**

123rd Session, 2019-2020

**S. 1052**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Davis

Document Path: l:\s-res\td\026deli.sp.td.docx

Companion/Similar bill(s): 4294

Introduced in the Senate on January 28, 2020

Currently residing in the Senate Committee on **Finance**

Summary: Delinquent taxes

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/28/2020 Senate Introduced and read first time ([Senate Journal‑page 4](file:///h:\sj\20200128.docx))

1/28/2020 Senate Referred to Committee on **Finance** ([Senate Journal‑page 4](file:///h:\sj\20200128.docx))

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=1052&session=123&summary=B) at the website

**VERSIONS OF THIS BILL**

[1/28/2020](file:///p:\pprever\2019-20\1052_20200128.docx)

**A** **BILL**

TO AMEND CHAPTER 45, TITLE 12 OF THE 1976 CODE, RELATING TO COUNTY TREASURERS AND THE COLLECTION OF TAXES, BY ADDING SECTION 12‑45‑440, TO PROVIDE THAT A COUNTY MAY ADOPT ALTERNATE DATES FOR THE APPLICATION OF PENALTIES ON DELINQUENT TAXES, THE ISSUANCE OF THE COUNTY TREASURER’S EXECUTION TO THE OFFICER AUTHORIZED TO COLLECT DELINQUENT TAXES, ASSESSMENTS, PENALTIES, AND COSTS, AND THE MAILING OF THE NOTICE OF DELINQUENT TAXES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 45, Title 12 of the 1976 Code is amended by adding:

“Section 12‑45‑440. (A)(1) As an alternative to the penalties and delinquent dates required by Sections 12‑45‑180 and 12‑51‑40, the governing body of a county may adopt by ordinance an alternate timeline of penalty imposition as provided in this section. However, if the officer who is authorized to collect delinquent taxes, assessments, penalties, and costs reports to the county treasurer, then the county treasurer’s adoption of this section is sufficient.

(2) Adoption of this section must be communicated in writing to the county auditor and the taxing authorities within the county before the start of the tax year in which this section is to be applied.

(3) An ordinance adopted by this section goes into effect in the property tax year following the year in which the ordinance is adopted.

(B)(1) If the taxes and assessments or any portion of the taxes and assessments charged against any property or person on the county duplicate for the current fiscal year are not paid before January sixteenth or thirty days after the mailing of tax notices, whichever occurs later, then the county auditor shall add a penalty of three percent on the county duplicate, and the county treasurer shall collect the penalty. If the taxes, assessments, penalties, and costs are not paid before February second, then the county treasurer shall issue his tax execution to the officer who is authorized and directed to collect delinquent taxes, assessments, penalties, and costs for its collection as provided in Chapter 51, Title 12. The United States postmark is the determining date for mailed payments.

(2) On February second, or as soon after as practicable, the officer to which the execution is directed shall mail a notice of delinquent property taxes, assessments, penalties, and costs to the defaulting taxpayer and to a grantee of record of the property whose value generated all or part of the tax. The officer must mail the notice to the best address available, which is either the address shown on the deed conveying the property, the property address, or other corrected forwarding address of which the officer has actual knowledge. The notice must specify that if the taxes, assessments, penalties, and costs are not paid, then the property will accrue additional penalties and must be advertised and sold to satisfy the delinquency. If the delinquent taxes, assessments, penalties, and costs are not paid before March seventeenth, then the county auditor must add an additional penalty of seven percent on the county duplicate, and the officer must collect it. If the taxes, assessments, penalties, and costs are not paid before April first, then the county auditor must add an additional penalty of five percent on the county duplicate, and the officer must collect it.

(3) If the taxes, assessments, penalties, and costs are not paid before May first, as soon as practicable, then the officer shall take exclusive possession of the property necessary to satisfy the payment of the taxes, assessments, penalties, and costs. In the case of real property, exclusive possession is taken by mailing a notice of the delinquent property taxes, assessments, penalties, and costs to the defaulting taxpayer and any grantee of record of the property at the address shown on the tax receipt or to an address of which the officer has actual knowledge, by ‘certified mail, return receipt requested‑restricted delivery’ pursuant to the United States Postal Service ‘Domestic Mail Manual Section S912.’ If the addressee is an entity instead of an individual, then the notice must be mailed to its last known post office address by ‘certified mail, return receipt requested’ as described in Section S912. In the case of personal property, exclusive possession is taken by mailing the notice of delinquent property taxes, assessments, penalties, and costs to the person at the address shown on the tax receipt or to an address of which the officer has actual knowledge. All delinquent notices must specify that if the taxes, assessments, penalties, and costs are not paid before a subsequent sale date, then the property must be advertised and sold for delinquent property taxes, assessments, penalties, and costs. The return receipt of the ‘certified mail’ notice is equivalent to ‘levying by distress.’

(4) If the ‘certified mail’ notice has been returned, then the officer shall take exclusive physical possession of the property against which the taxes, assessments, penalties, and costs were assessed by posting a notice at one or more conspicuous places on the premises, in the case of real estate, reading: ‘Seized by person officially charged with the collection of delinquent taxes of [name of political subdivision] to be sold for delinquent taxes,’ the posting of which is equivalent to levying by distress, seizing, and taking exclusive possession of personalty. In the case of personal property, the officer is not required to move the personal property from where situated at the time of seizure, and further, the personal property may not be moved after seizure by anyone under penalty of conversion unless delinquent taxes, assessments, penalties, and costs have been paid. Mobile homes are considered to be personal property for the purposes of this section unless the owner has de‑titled the mobile home pursuant to Section 56‑19‑510.

(5) The real or personal property must be advertised for sale at public auction. The advertisement must be in a newspaper of general circulation within the county or municipality, if applicable, and must be entitled ‘Delinquent Tax Sale.’ It must include the delinquent taxpayer’s name and a description of the property, provided that a reference to the county auditor’s map‑block‑parcel number is sufficient for a description of realty. The advertisement must be published once a week before the legal sale date for three consecutive weeks for the sale of real property and two consecutive weeks for the sale of personal property. All expenses of the levy, seizure, and sale must be added and collected as additional costs and must include, but are not limited to, the expenses of taking possession of the real or personal property, advertising, storage, identifying the boundaries of the property, and mailing certified notices. If the real property is divisible, then the tax assessor, county treasurer, and county auditor may ascertain a portion of the property that is sufficient to realize a sum upon sale that satisfies the payment of the taxes, assessment, penalties, and costs. In those cases, the officer may partition the property and furnish a legal description of it.

(C) If a title to real property is transferred during a tax year and the records of the county indicate that the tax notice was mailed or otherwise forwarded to the previous owner and that the current owner did not receive a timely notice of the tax due on the property, then the county treasurer or the officer shall waive any penalties imposed pursuant to this section. If the county treasurer or the officer determines by proper evidence that the mailing of a tax payment was improperly postmarked and this error results in the imposition of a penalty provided in this section, then the penalty imposed may be waived by the county treasurer or the officer.

(D) As an alternative, upon approval by the county governing body, a county may use the procedures provided in Chapter 56, Title 12 and Section 12‑4‑580 as an initial step in the collection of delinquent taxes on real and personal property.

(E) For the purposes of enforcing payment and the collection of property taxes, if the true owner is unknown because of the death of the owner of record and the absence of probate administration of the decedent’s estate, then the property must be advertised and sold in the name of the deceased owner of record.

(F) The alternate timeline authorized by this section is in addition to any other requirements of the law.”

SECTION 2. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑