

1971 O. A. G.

OFFICIAL OPINION NO. 19

July 30, 1971

Hon. Walter P. Helmke
Indiana State Senator
309 Standard Building
Fort Wayne, Indiana 46802

Dear Senator Helmke:

This is in response to your request for my Official Opinion on the following question:

“May the County Treasurer of each of the several counties of the State of Indiana enter into a contract with a private collection agency and assign to said collection agency the right and authority to collect all delinquent personal property taxes?”

ANALYSIS

The Legislature in this state has imposed the duty on the county treasurer of collecting delinquent property taxes owed to the county. Burns' (1970 Supp.), Section 64-2056 to 64-2059, inclusive, the same being IC 1971, 6-1-52-1 through 6-1-52-4 and Burns' (1970 Supp.), Section 64-2123 to 64-2140, inclusive, the same being IC 1971, 6-1-53-1 through 6-1-53-9.

It is well settled law in Indiana that an elected official may *not* contract with a third person for the performance of a service required by law of said public officer, 1937 O.A.G. 55 at page 61; *City of Richmond v. Dickinson* (1900), 155 Ind. 345.

The collection of delinquent property taxes must be handled according to the Indiana law, which provides for the appropriate notices, and delineates the procedure for enforcing payment, i.e. tax lien (Burns' 64-2062, the same being IC 1971, 6-1-52-7), levy on personal property (Burns' Section 64-2133, the same being IC 1971, 6-1-53-2), sale of personal property (Burns' Section 64-2137 the same being IC 1971, 6-1-53-6), and the sale of real property (Burns' Section 64-2259, the same being IC 1971, 6-1-56-5).

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CONCLUSION

It is, therefore, my official opinion that a county treasurer may *not* contract with a private collection agency to give it his authority to collect delinquent personal property taxes because this duty is imposed by law on the county treasurer.