

Stricken language would be deleted from and underlined language would be added to present law.
Act 172 of the Regular Session

State of Arkansas
94th General Assembly
Regular Session, 2023

As Engrossed: H1/26/23 H2/6/23
A Bill

HOUSE BILL 1191

By: Representative Richmond
By: Senator G. Stubblefield

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING MANAGEMENT AND
SALE OF TAX DELINQUENT LANDS BY THE COMMISSIONER OF
STATE LANDS; TO STANDARDIZE THE USE OF THE TERM
"PARCEL"; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING MANAGEMENT
AND SALE OF TAX DELINQUENT LANDS BY THE
COMMISSIONER OF STATE LANDS; AND TO
STANDARDIZE THE USE OF THE TERM "PARCEL".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 21-6-203(c), concerning the Commissioner of State Lands and definitions, is amended to read as follows:

(c) All funds, including proceeds, rates, fees, and charges collected by the Commissioner of State Lands, shall be deposited into a financial institution in the state of Arkansas or United State Treasury Securities.

SECTION 2. Arkansas Code § 26-37-103 is amended to read as follows:
26-37-103. Verification by county assessor.

(a) Prior to certification to the Commissioner of State Lands, the county assessor shall:

(1) Verify the assessment to establish value on all parcels to be certified;

(2) Verify the name and last known address of the owner of



record of the tax-delinquent ~~land~~ parcel; and

(3) *Determine whether the tax-delinquent ~~land~~ parcel exists.*

(b) *If the ~~land~~ parcel is found to be nonexistent, the county assessor shall remove the delinquent entry from the assessment rolls.*

(c) ~~No tax-delinquent land shall be certified~~ A tax delinquent parcel shall not be transmitted by certification to the Commissioner of State Lands without the county assessor's verification.

(d) In the event the Commissioner of State Lands determines the tax-delinquent parcel is incorrectly certified for failure to meet the requirements of this section, the Commissioner of State Lands shall return the tax-delinquent parcel with the invalid certification to the county.

SECTION 3. Arkansas Code § 26-37-201(a)(1), concerning the publication of notice and fee by the Commissioner of State Lands, is amended to read as follows:

(a)(1) The Commissioner of State Lands shall publish a notice of sale of ~~land~~ a parcel upon which the ad valorem property taxes have not been paid in a newspaper having general circulation in the county where the ~~land~~ parcel is located.

SECTION 4. Arkansas Code § 26-37-201(b), concerning the publication of notice and fee by the Commissioner of State Lands, is amended to read as follows:

(b) The notice shall:

~~(1) Contain the assessed value of the land;~~

~~(2)~~ Contain the amount of taxes, interest, penalties, and other costs due on the ~~land~~ parcel;

~~(3)-(A)-(2)(A)~~ Contain the name of the owner, the legal description, and parcel number of the ~~land~~ parcel.

(B) A part or abbreviated legal description shall be sufficient in the notice if the name of the owner and parcel number are listed;

~~(4)-(3)~~ Contain a list of all interested parties; and

~~(5)-(4)~~ Indicate that the ~~land~~ parcel will be sold to the highest successful bidder if the bid is equal to at least the amount of delinquent taxes, penalties, interest, and the costs of the sale.

SECTION 5. Arkansas Code § 26-37-201(d), concerning the publication of notice and fee by the Commissioner of State Lands, is amended to read as follows:

(d)(1) Failure of the notice to contain the information required in subsection (b) of this section does not invalidate an auction sale of the ~~land~~ parcel unless an owner or interested party did not receive notice in substantial compliance with § 26-37-301.

SECTION 6. Arkansas Code § 26-37-205(a), concerning the distribution of funds by the Commissioner of State Lands, is amended to read as follows:

(a) All moneys collected by the Commissioner of State Lands from the sale or redemption of tax-delinquent ~~lands~~ parcels shall be distributed as follows:

(1)(A) First, to the Commissioner of State Lands, the penalties, the collection fees, the sale costs, and the other costs as prescribed by law.

(B) The sale costs include without limitation fees for title work;

(2) Second, to each county an amount equal to the taxes due plus interest and costs to the county as certified by the county collector, which amount shall be held in an escrow fund administered by and remitted to the county within one (1) calendar year of the receipt of the moneys by the Commissioner of State Lands;

(3)(A) Third, to each county an amount equal to the delinquent personal property taxes, plus penalty, of the owner or owners of the tax-delinquent ~~land~~ parcel as certified by the county collector, which amount shall be held in an escrow fund administered by and remitted to the county after one (1) calendar year of the receipt of the moneys by the Commissioner of State Lands.

(B) The Commissioner of State Lands shall review the information provided by the county collector and any other interested party to ascertain:

(i) Whether the personal property tax and penalty qualifies to be withheld from the tax-delinquent ~~land~~ parcel sale proceeds; and

(ii) The amount of personal property tax and penalty that qualifies under this subdivision (a)(3) to be withheld.

(C) If the Commissioner of State Lands is required to make a refund of the personal property taxes withheld under subdivision (a)(3)(A) of this section to a purchaser of tax-delinquent ~~lands~~ parcels for any reason, the amount of the refund shall be recovered by the Commissioner of State Lands from the county or counties that originally received the proceeds under this subdivision (a)(3) of the tax-delinquent ~~land~~ parcel sale.

(D) The Commissioner of State Lands shall promulgate rules and forms needed to administer this subdivision (a)(3).

(E) This section does not require the Commissioner of State Lands to search county records to determine whether an owner of the tax-delinquent ~~land~~ parcel owes delinquent personal property taxes.

(F) This section does not grant a county a right to a lien against real property for the payment of delinquent personal property tax;

(4)(A) Fourth, to the Department of Finance and Administration an amount equal to the delinquent tax, penalty, and interest owed to the department and for which certificates of indebtedness have been filed against the owner or owners of the tax-delinquent ~~land~~ parcel as certified by the department, which amount shall be held in an escrow fund administered by and remitted to the department within one (1) calendar year after the receipt of the moneys by the Commissioner of State Lands.

(B) If the Commissioner of State Lands is required to make a refund of the taxes withheld under subdivision (a)(4)(A) of this section to a purchaser of tax-delinquent ~~lands~~ parcels for any reason, the amount of the refund shall be recovered by the Commissioner of State Lands from the department from the proceeds originally received under this subdivision (a)(4).

(C) The Commissioner of State Lands shall promulgate rules and forms needed to administer this subdivision (a)(4);

(5)(A) Fifth, to each county an amount equal to the delinquent solid waste assessments, plus penalty and interest, of the owner or owners of the tax-delinquent ~~land~~ parcel as certified by the county collector, which amount shall be held in an escrow fund administered by and remitted to the county after one (1) calendar year of the receipt of the moneys by the Commissioner of State Lands.

(B) The Commissioner of State Lands shall review the information provided by the county collector and any other interested party to ascertain:

(i) Whether the amount of delinquent solid waste assessment and penalty and interest qualifies to be withheld from the tax-delinquent ~~land~~ parcel sale proceeds; and

(ii) The amount of delinquent solid waste assessment and penalty and interest that qualifies under this subdivision (a)(5) to be withheld.

(C) If the Commissioner of State Lands is required to make a refund of the delinquent solid waste assessment withheld under subdivision (a)(5)(A) of this section to a purchaser of tax-delinquent ~~lands~~ parcels for any reason, the amount of the refund shall be recovered by the Commissioner of State Lands from the county or counties that originally received the proceeds under this subdivision (a)(5) of the tax-delinquent ~~land~~ parcel sale.

(D) The Commissioner of State Lands shall promulgate rules and forms needed to administer this subdivision (a)(5).

(E) This section does not require the Commissioner of State Lands to search county records to determine whether an owner of the tax-delinquent ~~land~~ parcel owes delinquent solid waste assessments.

(F) This section does not grant a county a right to a lien against real property for the payment of delinquent solid waste assessment; and

(6) Sixth, to be placed in another escrow fund administered by the Commissioner of State Lands, the remainder, if any.

SECTION 7. Arkansas Code § 26-37-205(b)(2)(A), concerning the distribution of remaining funds to former owners of tax-delinquent land, is amended to read as follows:

(2)(A) After payment is made to the Commissioner of State Lands pursuant to subdivision (b)(1) of this section, the amount left in the remaining funds shall be paid to the former owners of the tax-delinquent ~~land~~ parcel.

SECTION 8. Arkansas Code § 26-37-205(b)(2)(C)(ii), concerning the

application process to establish prior ownership of tax-delinquent land, is amended to read as follows:

(ii) The application shall be provided by the Commissioner of State Lands and shall require proof of ownership of the tax-delinquent ~~land~~ parcel as well as proof of authority to act on behalf of the owner.

SECTION 9. Arkansas Code § 26-37-205(b)(2)(D)(i), concerning the requirements to obtain payment of excess funds by a prior owner of tax-delinquent lands, is amended to read as follows:

(D)(i) The former owner shall release and relinquish all rights, title, and interests in and to the tax-delinquent ~~land~~ parcel.

SECTION 10. Arkansas Code § 26-37-205(b)(3), concerning the obsolete provisions of the law regarding escrow funds for excess funds, is repealed.

~~(3)(A) Any funds placed in escrow prior to July 1, 2005, shall be held in escrow for five (5) years and at the end of the five-year period, if the funds have not been distributed, the escrow funds shall escheat by operation of law to the county in which the property is located.~~

~~(B) Any funds placed in escrow on and after July 1, 2005, but before July 1, 2018, shall be held for three (3) years, and at the end of the three-year period, if the funds have not been distributed, the escrow funds shall escheat by operation of law to the county in which the property is located.~~

~~(C) Any funds placed in escrow on and after July 1, 2018, shall be held for two (2) years, and at the end of the two-year period, if the funds have not been distributed, the escrow funds shall escheat by operation of law to the county in which the property is located.~~

SECTION 11. Arkansas Code § 26-37-205(c)-(e), concerning the distribution of proceeds from the redemption or sale of tax-delinquent lands to municipal taxing units, is amended to read as follows:

(c) Any funds placed in escrow shall be held by the Commissioner of State Lands for two (2) years from the date the funds are placed in escrow, and if at the conclusion of that time the funds have not been distributed, the escrow funds shall escheat by operation of law to the county in which the

parcel is located.

(d) All funds distributed to each county by the Commissioner of State Lands from the redemption or sale of tax-delinquent ~~lands~~ parcels, including any interest and costs, are to be distributed to the applicable taxing units where the delinquent ~~land~~ parcel is located within the county in the manner and proportion that the taxes would have been distributed if they had been collected in the year due.

~~(d)~~(e) All funds received by a county from the redemption of tax-delinquent ~~land~~ parcels at the county level, including any penalty, interest, and costs, are to be distributed to the applicable taxing units where the delinquent ~~land~~ parcel is located within the county in the manner and proportion that the taxes would have been distributed if they had been collected in the year due.

~~(e)~~(f) *This section shall be severable, and if any phrase, clause, sentence, or provision of this section is declared to be contrary to the laws of this state, the validity of the remainder of this section shall not be affected.*

SECTION 12. Arkansas Code § 26-37-303(a), concerning redemption deeds issued by the Commissioner of State Lands, is amended to read as follows:

(a) If the owner or redeemer redeems the tax-delinquent ~~land~~ parcel, *the Commissioner of State Lands shall issue:*

(1) ~~a~~ A redemption deed in the name of the owner ~~or redeemer~~ and record it in the county wherein the ~~land~~ parcel is located; and

(2) A redemption receipt to the redeemer.

SECTION 13. Arkansas Code § 26-37-303(b)(2), concerning specific attributes of redemption deeds issued by the Commissioner of State Lands, is amended to read as follows:

(2) Not convey or change the legal ownership to the ~~property~~ parcel redeemed.

SECTION 14. Arkansas Code § 26-37-310 is amended to read as follows:
26-37-310. Procedure for redeeming ~~land~~ parcels certified to state –
Definition.

(a) All ~~land~~ parcels forfeited to the state for nonpayment of taxes

may, until disposed of by the state, be redeemed under this section.

(b) To request redemption under subsection (a) of this section, a person shall submit the following to the Commissioner of State Lands:

(1)(A) An executed petition with a verified signature to redeem the ~~property~~ parcel in a form prescribed by the Commissioner of State Lands.

(B) The Commissioner of State Lands shall make the petition form available upon request;

(2) Payment in an amount equal to the total of outstanding taxes, penalties, interest, fees, and costs owed at the time the petition is received by the Commissioner of State Lands; and

(3) Any additional documentation requested by the Commissioner of State Lands.

(c) The total amount due under subdivision (b)(2) of this section shall not be raised or lowered for thirty (30) days after the date the redemption under subsection (a) of this section is requested, unless:

(1) The ~~property~~ parcel has been sold;

(2) The records have been amended by a county; or

(3) The actual costs, fees, and taxes are added to the total amount due.

(d) An updated petition to redeem shall be provided to the Commissioner of State Lands, if the date of the submission of the petition to redeem has expired or additional costs, fees, and taxes have accrued.

(e) *Petitions and payment in full received by the Commissioner of State Lands at least thirty (30) days before ~~and no later than ten (10) days following~~ the sale date shall be made in cash, certified funds, or as provided in § 26-37-302.*

(f)(1) Upon redemption, a redemption deed will be issued by the Commissioner of State Lands.

(2) The deed shall be forwarded to the circuit clerk of the county in which the ~~land or lot~~ parcel conveyed by the deed is situated, to be filed of record.

(3)(A) The Commissioner of State Lands may establish by rule a fee for producing a redemption deed.

(B)(i) A fee under this subsection shall not be established in an amount that exceeds the costs expended by the Commissioner of State Lands in producing or filing the redemption deed or performing the

services required to carry out the established duties of the ~~office~~ Office of the Commissioner of State Lands.

(ii) As used in subdivision (f)(3)(B)(i) of this section, "costs" means the actual costs expended by the Commissioner of State Lands plus three percent (3%) of the actual costs expended by the Commissioner of State Lands.

(g) The redemption deed shall serve as proof that payment has been received by the Commissioner of State Lands, in accordance with the provisions of § 26-37-302, and does not convey or change the legal ownership to the property redeemed.

(h) Upon receipt of the redemption deed, the county collector shall extend on the tax book against the ~~land~~ parcel or lot the taxes other than state and county for the years that the taxes have not been paid since the sale of the ~~land or lot~~ parcel to the state, and these taxes shall be charged and collected as other taxes.

(i) The proceeds of all redemptions of forfeited ~~land~~ parcels shall be divided between the county where the ~~land are~~ parcel is situated and the state, as set forth in § 26-37-205, and paid over in the manner as required and provided in this section.

SECTION 15. Arkansas Code § 26-37-313 is repealed.

~~26-37-313. Reassessment of parcels of land upon depreciation since forfeiture.~~

~~(a)(1) Town and city lots and blocks and acreage tracts, lots, blocks, divisions, and subdivisions that have been platted and sold as being outside of the corporate limits of towns and cities, and rural lots and parcels of land now, or which may hereafter be, forfeited to the state for nonpayment of taxes due thereon that have depreciated in value since forfeiture may be reassessed at their present value by the county assessor of the county in which the lands are located, upon application being made in writing by the application to redeem or purchase them, setting forth the reasons for the reassessment. No application shall contain more than five (5) descriptive calls. Before any such reassessment shall be valid, it shall be presented to the county judge and the chief county school officer of the county in which the lands are located and approved by them in writing and made a matter of record in the county by the county clerk.~~

~~(2) The fee of the county assessor shall be one dollar (\$1.00) for each application. The fee shall be paid to the county treasurer and credited by him or her to the county general revenue fund. The fee of the county clerk shall be the regular fee allowed by law and shall be paid by the applicant seeking reassessment.~~

~~(b)(1) If the county assessor deems the assessment for which parcels of land were forfeited to be too high, he or she shall prepare a certificate stating that a reassessment has been made under this section and shall state, under oath, the cause for the depreciation in the value of the lots or parcels of land.~~

~~(2) The county assessor, the county judge, and the chief county school officer are prohibited from making any such reassessment as set out in this section except for the following causes:~~

~~(A) Burned buildings not replaced and on which the applicant did not collect insurance;~~

~~(B) Buildings removed and from which the applicant received no benefit;~~

~~(C) Erosion;~~

~~(D) Damage by flood;~~

~~(E) Damage by tornado;~~

~~(F) Removal of timber from which the applicant received no benefit; or~~

~~(G) Any act of God.~~

~~(3) When the reassessment has been made, a complete record thereof, including a certified copy of the application, the reassessment, and the court order, shall be forwarded to the Commissioner of State Lands, who shall, upon its receipt, enter it upon a record to be kept by him or her in his or her office for that purpose, and he or she shall issue redemption deeds or sale deeds for forfeited lands in the manner and form provided by law, based upon the reassessment value.~~

/s/Richmond

APPROVED: 3/2/23