

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Senator Hoofman**

A Bill

SENATE BILL

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE § 14-90-805, § 14-93-119,
9 AND § 14-94-118 FOR THE PURPOSE OF AUTHORIZING THE RELEASE
10 OF REAL PROPERTY FROM ASSESSMENTS BY MUNICIPAL IMPROVEMENT
11 DISTRICTS, PROPERTY OWNERS' IMPROVEMENT DISTRICTS, AND
12 MUNICIPAL PROPERTY OWNERS' IMPROVEMENT DISTRICTS ON WHICH
13 SUCH ASSESSMENTS HAVE ALREADY BEEN PAID OR PREPAID; TO
14 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

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

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18 SECTION 1. Arkansas Code § 14-90-805 is hereby amended to read as
19 follows:

20 "14-90-805. Preference of assessment.

21 (a) An assessment shall be a charge and a lien against all the real
22 property in a municipal improvement district from the date of an ordinance and
23 shall be entitled to preference over all judgments, executions, encumbrances,
24 or liens whensoever created.

25 (b) The lien shall continue until the local assessment, including any
26 penalty and costs that may accrue thereon shall be paid. Provided, however,
27 with the prior written approval of the board of improvement, the county clerk
28 shall release from the lien of any assessment, any lot, block, or tract with
29 respect to which the assessment shall have been paid or prepaid.

30 (c) As between grantor and grantee, all payments not due at the date of
31 the transfer of the real property shall be payable by the grantee."

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33 SECTION 2. Arkansas Code § 14-93-119 is hereby amended to read as
34 follows:

35 "14-93-119. Levy of tax.

1 (a)(1) The board of the district shall, at the same time that the
2 assessment of benefits is equalized or at any time thereafter, enter upon its
3 records an order which shall have all the force of a judgment, providing that
4 there shall be assessed upon the real property of the district a tax
5 sufficient to pay the estimated cost of the improvement, with ten percent
6 (10%) added for unforeseen contingencies.

7 (2) The tax is to be paid by the real property in the district in
8 the proportion to the amount of the assessment of benefits thereon and is to
9 be paid in annual installments, as provided in the order.

10 (b) The tax so levied shall be a lien upon all the real property in the
11 district from the time it is levied, shall be entitled to preference over all
12 demands, executions, encumbrances, or liens whensoever created, and shall
13 continue until such assessment, with any penalty costs that may accrue
14 thereon, shall have been paid. Provided, however, with the prior written
15 approval of the board of the district, the county clerk shall release from the
16 lien of the assessment and tax any lot, block, or tract with respect to which
17 the assessment and tax shall have been paid or prepaid.

18 (c)(1) The remedy against the levy of taxes shall be by suit in
19 chancery.

20 (2) The suit must be brought within thirty (30) days from the
21 time of notice that the levy was made, and on the appeal, the presumption
22 shall be in favor of the legality of the tax.

23 (d)(1) The board shall, promptly after entry of an order levying the
24 tax, publish once a week for two (2) consecutive weeks in some newspaper
25 having general circulation in the district, a notice setting forth the order
26 of levy and warning all persons affected thereby that it shall become final
27 unless suit is brought to contest it within thirty (30) days of the date of
28 first publication of the notice.

29 (2) No property owner shall be barred from contest of the levy
30 within the thirty (30) day publication period."

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32 SECTION 3. Arkansas Code § 14-94-118 is hereby amended to read as
33 follows:

34 "14-94-118. Levy of tax.

35 (a)(1) At the same time that the assessment of benefits is equalized or

1 at any time thereafter, the board shall enter upon its records an order, which
2 shall have all the force of a judgment, providing that there is levied upon
3 the real property of the district a tax sufficient to pay the estimated cost
4 of the improvement with ten percent (10%) added for unforeseen contingencies.

5 (2) The tax is to be paid by the real property owners in the
6 district in the proportion to the amount of the assessment of benefits thereon
7 and is to be paid in annual installments, as provided in the order.

8 (b) The tax so levied shall be a lien upon all the real property in the
9 district from the time it is levied, shall be entitled to preference over all
10 demands, executions, encumbrances, or liens whensoever created, and shall
11 continue until the assessment, with any penalty costs that may accrue thereon,
12 shall have been paid. Provided, however, with the prior written approval of
13 the board, the county clerk shall release from the lien for the assessment and
14 tax any lot, block, or tract with respect to which the assessment and tax
15 shall have been paid or prepaid.

16 (c)(1) Promptly after entry of an order levying the tax, the board
17 shall publish at least one (1) time in some newspaper having general
18 circulation in the municipality a notice setting forth the order of levy and
19 warning all persons affected by it that the order shall become final unless
20 suit is brought to contest the order within thirty (30) days of the date of
21 first publication of the notice; and

22 (2) No property owner shall be barred from contest of the levy
23 within the thirty (30) days' publication period.

24 (d)(1) The remedy against such levy of taxes shall be by suit in
25 chancery.

26 (2) The suit must be brought within thirty (30) days from the
27 time of notice that the levy was made, and, on the appeal, the presumption
28 shall be in favor of the legality of the tax."

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30 SECTION 4. All provisions of this act of general and permanent nature
31 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
32 Revision Commission shall incorporate the same in the Code.

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34 SECTION 5. If any provisions of this act or the application thereof to
35 any person or circumstance is held invalid, the invalidity shall not affect

1 other provisions or applications of the act which can be given effect without
2 the invalid provisions or application, and to this end the provisions of this
3 act are declared to be severable.

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5 SECTION 6. All laws and parts of laws in conflict with this act are
6 hereby repealed.

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8 SECTION 7. Emergency. It is hereby found and determined by the
9 Seventy-Eighth General Assembly of the State of Arkansas that the impairment
10 of the rights of owners of real property located within various improvement
11 districts to prepay their assessments greatly infringes on their rights to
12 own, manage, and enjoy their real property and that it must be made
13 unimpeachably clear that these owners of real property do have and should have
14 the right to prepay these assessments and to be released from the liens upon
15 the prepayment of these assessments. Therefore, in order to clarify and
16 extend rights of owners of real property located within various improvement
17 districts, an emergency is hereby declared to exist, and this act being
18 necessary for the immediate preservation of the public peace, health, and
19 safety, shall be in full force and effect from and after its passage and
20 approval.

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