

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas *As Engrossed: S3/7/19 S3/20/19 H3/28/19*
92nd General Assembly **A Bill**
Regular Session, 2019

SENATE BILL 457

By: Senator B. Ballinger
By: Representative Payton

For An Act To Be Entitled

AN ACT TO REGULATE THE ADMINISTRATION OF REAL
PROPERTY OF THE STATE AND POLITICAL SUBDIVISIONS OF
THE STATE; AND FOR OTHER PURPOSES.

Subtitle

TO REGULATE THE ADMINISTRATION OF REAL
PROPERTY OF THE STATE AND POLITICAL
SUBDIVISIONS OF THE STATE.

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

*SECTION 1. Arkansas Code § 22-2-121 is amended to read as follows:
22-2-121. Real estate ~~compilation~~ notification.*

*~~(a) The Building Authority Division of the Department of Finance and
Administration shall:~~*

*~~(1) Perform a compilation of all real property owned by state
agencies, including boards, commissions, and institutions of higher
education, the Arkansas State Game and Fish Commission, the Arkansas
Department of Transportation, and the State Highway Commission;~~*

*~~(2) Create a database that shall include a description of each
piece of real property owned; and~~*

~~(3) Maintain the database with current information.~~

*~~(b) The initial compilation of all real property shall be completed by
January 1, 2002.~~*

*~~(c) All state agencies identified in subdivision (a)(1) of this
section shall provide the necessary information to the division.~~*



~~(d) The division, in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., may adopt rules necessary to administer the provisions of this section, notify the Commissioner of State Lands of the Governor's approval of a state agency's request to purchase or sell property under § 22-6-601.~~

SECTION 2. Arkansas Code § 22-5-209 is amended to read as follows:

22-5-209. Deeds, abstracts, and contracts affecting state lands filed in office of Commissioner of State Lands - Additional information - Failure to comply.

(a) All deeds, abstracts, contracts, and other evidences of title to realty belonging to the State of Arkansas shall be filed in the office of the Commissioner of State Lands to be preserved by the Commissioner of State Lands as the other public records and files of his or her office.

~~(b) In the event any state office, department, agency, or institution fails or refuses to~~ Separately for each item of real property in the possession of a state agency, the state agency shall maintain and furnish to the Commissioner of State Lands a record containing:

(1)(A) The official recording information shown by the county recorder's records and the legal description of the real property.

(B) A copy of the most recent deed to the real property may be furnished to the Commissioner of State Lands if the copy contains the official recording information and the legal description;

(2) If the real property was purchased by a state agency, the date of purchase and the purchase price; and

(3) The name of the state agency holding title to the real property for the state.

(c) If the description of real property required under subsection (b) of this section is excessively voluminous, the Commissioner of State Lands may permit the state agency in possession of the real property to furnish the description in summary form.

(d) If a state agency does not comply with the provisions of subsection (a) of this section, the Commissioner of State Lands shall report the failure or refusal to comply to the Governor, who shall notify the administrative officer of the ~~office, department, state agency, or institution~~ to immediately report to him or her the reasons for his or her

the state agency's failure ~~or refusal~~ to comply.

~~(e)~~(e) Willful failure ~~or refusal~~ to comply with this section by ~~any officer~~ a public official shall constitute nonfeasance in office.

(f)(1) As used in this subchapter, "state agency" means an instrumentality of state government, including without limitation an office, a department, an agency, a board, a commission, or an institution of the state.

(2) As used in this subchapter, "state agency" does not include:

(A) The Arkansas Department of Transportation Department;

(B) An institution of higher education;

(C) The Arkansas Public Employees' Retirement System;

(D) The Arkansas Teacher Retirement System;

(E) The Arkansas State Game and Fish Commission; or

(F) The Arkansas Department of Emergency Management.

SECTION 3. Arkansas Code Title 22, Chapter 5, Subchapter 2, is amended to add an additional section to read as follows:

22-5-210. Real property records of the Arkansas Department of Transportation Department, institutions of higher education, Arkansas Public Employee's Retirement System, Arkansas Teacher Retirement System, and certain other properties.

(a) With respect to real property administered by the Arkansas Department of Transportation, an institution of higher education, the Arkansas Public Employees' Retirement System, and the Arkansas Teacher Retirement System:

(1) The Arkansas Department of Transportation, an institution of higher education, the Arkansas Public Employees' Retirement System, and the Arkansas Teacher Retirement System shall each maintain inventory records of the real property it owns; and

(2) The commissioner of State Lands may:

(A) Review, verify, and maintain inventory records of the real property; and

(B) In cooperation with each affected state agency, prepare reports and make recommendations concerning the best use of the real property.

(b) At the request of the Commissioner of State Lands:

(1) The Arkansas Department of Transportation shall submit its real property inventory records that are not related to the roadways and bridges it maintains; and

(2) No more than semiannually, the real property inventory records of an institution of higher education, the Arkansas State Game and Fish Commission, the Arkansas Public Employees' Retirement System, and the Arkansas Teacher Retirement System may be submitted to the Commissioner of State Lands for information purposes only.

(c) The duties of the Commissioner of State Lands under this subchapter and § 22-5-301 et. seq. do not apply to:

(1) Real property that is owned by the state but is managed by the United States Government;

(2) The real property composing the State Capitol complex;

(3) The real property composing the Arkansas Governor's Mansion;

(4) The real property composing the state veteran's cemetery system;

(5) Highway rights-of-way owned by the Arkansas Department of Transportation;

(6) The real property composing the Old State House Museum;

(7) The real property owned by the Arkansas Department of Emergency Management; and

(8) Real property that is managed by a state retirement system as a part of its trust assets.

SECTION 4. Arkansas Code § 22-5-303 is amended to read as follows:

22-5-303. Additional duties of Commissioner of State Lands.

In addition to other duties and powers conferred by law upon the Commissioner of State Lands, he or she shall ~~have the following duties and powers:~~

(1) ~~To effectuate~~ Effectuate the policies and carry out the purposes declared in § 22-5-301, ~~to carry out its purposes by securing~~ including:

(A) Securing the cooperation and assistance of the United States and any of its agencies; ~~and to enter~~

(B) Entering into contracts, agreements, and conveyances necessary to secure such federal assistance;

(2) ~~To conduct~~ Conducting investigations, independently or jointly with other state and federal agencies, relating to conditions and factors affecting, and methods of accomplishing more effectively, the purposes of this subchapter; ~~and~~

(3) ~~To assign~~ Assigning lands to the several state agencies for administration, subject to their agreement and acceptance; ~~and~~

(4) Review, compile, and maintain inventory records of the real property owned by the State of Arkansas based upon the information submitted under §§ 22-5-209 and 22-5-411 and the records in his or her office.

SECTION 5. Arkansas Code § 22-5-305 is repealed.

~~22-5-305. State Land Use Committee—Commissioner of State Lands as secretary—Employment of person with technical training—Assignment of employees—Supervision.~~

~~(a) A State Land Use Committee shall be appointed by the Commissioner of State Lands, to be composed of nine (9) members, each of whom shall be a qualified elector.~~

~~(b) The Commissioner of State Lands shall appoint one (1) member from each of the seven (7) congressional districts and two (2) members at large for a term of two (2) years.~~

~~(c) The appointments shall be made with the advice and consent of the Senate.~~

~~(d) The Commissioner of State Lands shall serve as secretary to the committee and shall receive a salary of two thousand dollars (\$2,000) per year for his or her services.~~

~~(e) The Commissioner of State Lands may employ one (1) person who has had technical training in problems relating to land use and who shall assist in the performance of any duties that may be required by the committee. The Commissioner of State Lands shall determine the salary of this employee.~~

~~(f) The supervising officer of any state agency or institution of education may detail or assign to the committee members of the staff of the agency or institution and may make such special reports, investigations, or studies as the committee may request.~~

~~(g) The Commissioner of State Lands may request the committee and other state or federal agencies whose regular functions require an understanding of land qualities and land classification for particular uses~~

~~to supervise the inspection, classification, and appraisal of state-owned land according to its most appropriate use, having regard to the present and future welfare of the state.~~

SECTION 6. Arkansas Code § 22-5-306, as amended by Acts 2019, No. 315, is amended to read as follows:

22-5-306. Appraisers – Qualifications, oath, and bond.

(a) The Commissioner of State Lands ~~shall~~ may appoint ~~such~~ appraisers ~~as are provided for by any appropriation~~ to inspect and appraise state-owned lands for sale, transfer, or donation.

~~(b) It shall be unlawful for the Commissioner of State Lands to dispose of state-owned lands without an appraisal made by appraisers appointed by the Commissioner of State Lands, except that he or she may sell or dispose of town lots and acreage descriptions of ten (10) acres or less without an appraisal.~~

~~(c)~~ Each appraiser selected shall, by education or experience, be familiar with and know how to arrive at the value of lands, water rights, mineral rights, timber lands, rural lands, agricultural lands, and noncultivable lands; shall understand legal descriptions of real properties; shall have a working knowledge of county and state real property records; and shall be capable of passing dependable judgments upon the values of rural properties.

~~(d)~~(c) Upon entering the duties of his or her office, each appraiser shall take an oath of office as prescribed in Arkansas Constitution, Article 19, § 20. This oath shall state that he or she will not, directly or indirectly, be engaged in the purchase of state-owned lands during his or her continuance in office and that he or she will not engage in any speculation of state-owned lands or give information to any agent, friend, or secret or other partner so as to secure the advantages of that information to himself or herself or to any person, association, or company to the prejudice or exclusion of other persons.

~~(e)~~(d) Each appraiser shall enter into bond to the state in the sum of one thousand dollars (\$1,000), to be furnished by a surety company authorized to do business in the State of Arkansas, conditioned that he or she will faithfully discharge all of his or her duties according to law and the rules ~~and regulations of the State Land Use Committee~~ Commissioner of State Lands.

~~(f)~~(e) After qualifying as provided in this section, each appraiser shall perform his or her duties in the manner prescribed by the Commissioner of State Lands.

SECTION 7. Arkansas Code § 22-5-307 is amended to read as follows:

22-5-307. Classification and disposition of state lands generally.

(a) State lands shall be classified as to whether they should be retained in public ownership or returned to private ownership through sale or donation, and the classification may be changed.

(b)(1) The Commissioner of State Lands shall dispose of the lands and make deeds to the lands in accordance with ~~this~~ the classification under subsection (a) of this section.

(2) ~~Only~~ With the approval of the Governor and review by the General Assembly or the Legislative Council, lands classified as suitable for return to private ownership ~~shall be subject to sale~~ may be sold under § 22-5-312 and subsection (e) of this section to private ~~individuals~~ parties by the Commissioner of State Lands.

(c) The Commissioner of State Lands may direct that land shall be retained and administered by certain appropriate state or local agencies or shall be disposed of and deeded in such manner that the state shall be eligible for any benefits under any act of the United States Congress.

(d) Where lands are disposed of by return to private ownership, the deeds shall contain such restrictive covenants or restraints on alienation as ~~the State Land Use Committee~~ Commissioner of State Lands may deem necessary to ensure the protection and use of the land in a manner beneficial to the public. All coal, oil, gas, and mineral rights shall be reserved to the state except in the case of tax-forfeited lands. However, the original owner or his or her heirs shall be allowed to redeem or acquire these lands in accordance with the provisions of this subchapter without the oil, gas, and mineral rights being restricted or reserved.

(e)(1) Where land is classified as land which should be returned to private ownership by sale, the Commissioner of State Lands shall offer the land for sale to the highest bidder, but only if his or her bid is at least equal to the appraised value.

(2) ~~No land~~ Land shall not be sold for less than its appraised value, except that, pending appraisal ~~by the committee~~, the Commissioner of

State Lands is authorized to continue sales of state lands as provided for in §§ 26-37-101 – 26-37-105, 26-37-201 – 26-37-205, and 26-37-301 – 26-37-303.

(f) ~~No lands~~ Land shall not be donated by the Commissioner of State Lands until they have been classified as appropriate for donation by the ~~committee~~ Commissioner of State Lands.

(g) If, at the end of three (3) years after appraisal by the ~~committee~~ Commissioner of State Lands, lands classified as land which should be returned to private ownership by sale shall remain unsold on the books of the Commissioner of State Lands, the unsold lands shall be reappraised by the ~~committee~~ Commissioner of State Lands.

(h) Tax delinquent lands are not subject to the terms and restrictions of this section and may be disposed of as required by law.

/s/B. Ballinger