

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Gordon**

A Bill

ACT 646 OF 1993
SENATE BILL 528

For An Act To Be Entitled

8 "AN ACT TO PROVIDE FOR THE PROCEDURE FOR CONFIRMING AND
9 QUIETING TITLE TO REAL PROPERTY FORFEITED AND CONVEYED TO
10 THE STATE FOR THE NONPAYMENT OF TAXES AND TO REPEAL
11 ARKANSAS CODE ANNOTATED SECTIONS 26-38-108 THROUGH 26-38-
12 123; AND FOR OTHER PURPOSES."

Subtitle

14 "PROCEDURE FOR CONFIRMING AND QUIETING TITLE TO REAL
15 PROPERTY FORFEITED TO THE STATE FOR NONPAYMENT OF TAXES."
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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20 SECTION 1. Suit to confirm title to land in state. (a) Whenever any
21 real property, sectional, or town or city lots, has been forfeited to the
22 state of Arkansas and conveyed by certification to the Commissioner of State
23 Lands for the nonpayment of taxes, the state may file a suit for confirmation
24 of title in the chancery court, wherein the real property lies, requesting
25 that the title to the real property be confirmed and quieted in the state of
26 Arkansas, in care of the Commissioner of State Lands, in fee simple.

27 (b) Suit to confirm title by the state may be filed at any time
28 subsequent to the conveyance by certification. Further, the state may elect
29 to file for confirmation subsequent to conveyance from the state to any
30 purchaser, donee, or redemtor. In the event confirmation is filed following
31 a conveyance from the state, the decree of confirmation shall inure to the
32 benefit of the purchaser, donee, or redemtor of the lands.

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34 SECTION 2. Petition. The Commissioner of State Lands, on behalf of the
35 state of Arkansas, shall file in the office of the clerk of the chancery court
36 of the county in which the forfeited real property is situated, a petition

1 requesting that title be confirmed in the real property described therein.
2 The petition shall have a certified list attached to it, describing the real
3 property and containing the years and the amounts for which each parcel was
4 forfeited. The petition may include as many parcels of land as the
5 commissioner deems proper so long as all parcels lie within the county. Such
6 certified list shall be all the proof that shall be required to show prima
7 facie title in the state.

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9 SECTION 3. Parties to suit. (a) Any person, firm, corporation, or
10 improvement district claiming any interest in any parcel of real property
11 adverse to the state shall have the right to be made a party to a suit, and if
12 made a party, the claims of any such person, firm, corporation, or improvement
13 district shall be adjudicated.

14 (b) If any person, firm, corporation, or improvement district sets up
15 the defense that the conveyance to the state was void for any cause, the
16 person, firm, corporation, or improvement district shall tender to the clerk
17 of the court the amount of taxes, penalties, interest and costs due and owing
18 on the parcel.

19 (c) In case any person, firm, corporation, or improvement district so
20 made a party defendant to the proceeding, as provided in this section, shall
21 establish a valid defense a decree of the court shall be rendered in favor of
22 the defendant, with respect to the parcel so affected, and the decree shall
23 order the defendant to pay all taxes, penalties, interest, and costs due on
24 the parcel. Thereafter, the Commissioner of State Lands shall issue a Deed of
25 Redemption. In the event the defendant fails to establish a valid defense, an
26 order so stating will be entered and the defendant will be allowed to recover
27 the funds tendered to the clerk pursuant to paragraph (b) of this section.

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29 SECTION 4. Publication of notice. (a) Upon the filing of the
30 petition, there shall be published for four (4) consecutive weeks, once per
31 week, in a newspaper having general circulation in the county wherein the real
32 property is located, a notice calling on all persons, firms, corporations, or
33 improvement districts who can set up any right to the real property so
34 conveyed and forfeited, to show cause why the title to the real property
35 should not be confirmed, quieted, and vested in the state of Arkansas in fee

1 simple.

2 (b) The notice shall set forth the description of the real property and
3 the name of the person, firm, or corporation last paying taxes thereon.

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5 SECTION 5. Effect of the decree of confirmation. (a) The decree of
6 the chancery court confirming the forfeiture and conveyance to the state of
7 real property shall operate, except only as expressly provided in this
8 section, as a complete bar, both at law and in equity, against any and all
9 persons, firms, corporation, quasi-corporations, associations, trustees, and
10 holders of beneficial interests who may hereafter assert or defend claims to
11 the real property and as a vesting of the complete and indefensible title to
12 the real property in the state and its grantees in fee simple, free and clear
13 of all such claims.

14 (b) It shall so operate, regardless of whether such forfeiture and
15 conveyance may have been void or voidable because of defects or irregularities
16 occurring in the proceedings therefor.

17 (c) All parties shall have the right to appeal any decree of
18 confirmation pursuant to the Arkansas Rules of Civil Procedure. Any person,
19 firm, corporation, quasi-corporation, association, trustees, and holders of
20 beneficial interest whose interest in the property is properly recorded but is
21 not properly served notice of the confirmation proceedings, shall have one (1)
22 year from and after rendition to attack the decree insofar as it relates to
23 his real property. All attacks upon the decree made after the one (1) year
24 period shall be taken to be collateral attacks and shall be wholly
25 ineffectual.

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27 SECTION 6. Decree. (a) The decree of a chancery court confirming the
28 forfeiture and conveyance to the state of real property shall inure to the
29 benefit of the purchaser, donee, or redemtor of the real property.

30 (b) Fees and costs associated with the filing of confirmation suits may
31 be charged to any purchaser, donee, or redemtor to whose benefits the decree
32 of confirmation inures.

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34 SECTION 7. Court costs and publication fees. The state shall be exempt
35 from payment of court costs. Fees for publication of notices required under

1 the act shall be governed by Arkansas Code Annotated 26-37-108.

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3 SECTION 8. Severed mineral rights. The provisions of this act shall be
4 applicable to severed mineral interests that are forfeited and conveyed to the
5 state for the nonpayment of taxes. Wherever the terms real property,
6 parcel(s), or parcel of real property appear, the same shall also mean severed
7 mineral interests.

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9 SECTION 9. Application. The provisions of this act are applicable to
10 all forfeitures and conveyances to the state or from the state whether such
11 forfeiture or conveyance occurred before or after the effective date of this
12 act.

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14 SECTION 10. All provisions of this act of a general and permanent
15 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
16 Code Revision Commission shall incorporate the same in the Code.

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18 SECTION 11. Arkansas Code Annotated §§26-38-108 through 26-38-123 are
19 hereby repealed.

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21 SECTION 12. If any provision of this act or the application thereof to
22 any person or circumstance is held invalid, such invalidity shall not affect
23 other provisions or applications of the act which can be given effect without
24 the invalid provision or application, and to this end the provisions of this
25 act are declared to be severable.

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27 SECTION 13. All laws and parts of laws in conflict with this act are
28 hereby repealed.

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30 SECTION 14. EMERGENCY. It is hereby found and determined by the
31 General Assembly that a method of strengthening and validating the title of
32 the state and its grantees to real property forfeited for nonpayment of taxes
33 must be established; that, in order to accomplish this purpose, the state
34 shall be authorized to file confirmation proceedings against real property
35 that is forfeited and conveyed to the state for the nonpayment of taxes; that,

1 the purpose of this act is to cure all irregularities, informalities, and
2 defects connected with the procedures of forfeiture and sale. Further, a
3 decree of confirmation shall act as a complete bar against any and all
4 persons, firms, corporations, quasi-corporations, associations, trustees, and
5 holders of beneficial interests who may claim the real property, subject only
6 to the exceptions set forth in this act. Therefore, an emergency is hereby
7 declared to exist and this act being necessary for the immediate preservation
8 of the public peace, health and safety shall be in full force and effect from
9 and after its passage and approval.

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APPROVED: 3/23/93

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