

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

A Bill

ACT 732 OF 1993
SENATE BILL 615

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE § 14-16-105 TO EXEMPT
9 RECYCLABLE MATERIALS FROM A COUNTY GOVERNMENT RECYCLING
10 PROGRAM FROM THE RESTRICTIONS ON THE SALE OF COUNTY
11 PROPERTY; TO DECLARE AN EMERGENCY; AND FOR OTHER
12 PURPOSES."

Subtitle

14 "AN ACT TO EXEMPT RECYCLABLE MATERIALS FROM A COUNTY
15 GOVERNMENT RECYCLING PROGRAM FROM THE RESTRICTIONS ON THE
16 SALE OF COUNTY PROPERTY."

18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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21 SECTION 1. Arkansas Code § 14-16-105 is hereby amended to read as
22 follows:

23 "14-16-105. Sale of county property generally.

24 (a) The county court of each county shall have power and jurisdiction
25 to sell and cause to be conveyed any real estate or personal property
26 belonging to the county and to appropriate the proceeds of the sale for the
27 use of the county by proceeding in the manner set forth in this section.

28 (b)(1) Whenever the county judge of any county shall consider it
29 advisable and to the best interest of the county to sell and convey any real
30 or personal property belonging to the county, he shall cause an order to be
31 entered in the county court setting forth:

32 (A) A description of the property to be sold;

33 (B) The reason for the sale; and

34 (C) An order directing the county assessor to cause the
35 property to be appraised at its fair market value and to certify his appraisal
36 thereof to the county court within a time to be specified in the order.

1 (2) A certified copy of the order shall be delivered to the
2 county assessor by the county clerk, and the county clerk shall certify the
3 date of the delivery of the copy on the margin of the record where the order
4 is recorded.

5 (3) An order and these procedures prescribed in this section
6 shall not be required for any sale by the county of any materials separated,
7 collected, recovered, or created by a recycling program authorized and
8 operated by the county. However, the county judge shall maintain a record of
9 the recyclable materials sold, whether they were sold at public or private
10 sale, a description of the recyclables sold, the name of the purchaser, the
11 terms of the sale, and all the proceeds of the sale shall be deposited with
12 the county treasurer.

13 (c) (1) Upon receipt of the certified copy of the order, the county
14 assessor shall view the property described in the order and shall cause it to
15 be appraised at its fair market value.

16 (2) Within the time specified in the order, the assessor shall
17 file with the county clerk his written certificate of appraisal of the
18 property.

19 (d) (1) If the appraised value of the property described in the order is
20 less than the sum of five hundred dollars (\$500), the property may thereafter
21 be sold and conveyed by the county judge, either at public or private sale,
22 for not less than three-fourths (3/4) of the appraised value as shown by the
23 certificate of appraisal filed by the assessor.

24 (2) (A) When the sale has been completed, the county court shall
25 enter its order approving the sale.

26 (B) The order shall set forth:

- 27 (i) The description of the property sold;
- 28 (ii) The name of the purchaser;
- 29 (iii) The terms of the sale; and
- 30 (iv) (a) That the proceeds of the sale have been

31 deposited with the county treasurer; and

32 (b) The funds to which the proceeds were
33 credited by the county treasurer.

34 (e) (1) (A) If the appraised value of the property to be sold exceeds the
35 sum of five hundred dollars (\$500), the county judge may sell the property to

1 the highest and best bidder upon sealed bids received by the judge. The
2 sheriff, the treasurer, and the circuit clerk of the county in which the
3 property is to be sold shall constitute a board of approval for such sales,
4 and the judge shall be the ex officio chairman of the board without a vote.

5 (B) Such property, when it exceeds the appraised value of
6 five hundred dollars (\$500), shall not be sold for less than three-fourths
7 (3/4) of its appraised value as determined by the certificate of the assessor.

8 (2) (A) Notice of the sale shall be published for two (2)
9 consecutive weekly insertions in some newspaper published and having a general
10 circulation in the county.

11 (B) The notice shall specify:

12 (i) The description of the property to be sold;

13 (ii) The time and place for submitting written bids;

14 and

15 (iii) The appraised value of the property to be sold.

16 (C) The notice shall be dated and signed by the judge.

17 (3) The judge shall have the right to reject any and all bids
18 received by him pursuant to the notice.

19 (4) (A) When a bid has been accepted for the property by the
20 judge, he, as chairman of the approval board, shall immediately call a meeting
21 of the board, and the proposals to sell at the acceptable bid shall be
22 submitted to the board for its approval.

23 (B) (i) If a majority of the board approves the sale, then
24 the judge may sell and convey the property to the highest bidder;

25 (ii) When the sale has been so approved and
26 completed, the county court shall enter an order approving the sale, which
27 shall set forth the details of the sale as provided in subsection (d) of this
28 section.

29 (f) (1) (A) Any sale or conveyance of real or personal property belonging
30 to any county not made pursuant to the terms of this section shall be null and
31 void. Any taxpayer of the county may, within two (2) years from the date a
32 sale is consummated, bring an action to cancel the sale and to recover
33 possession of the property sold. This action for the use and benefit of the
34 county is to be taken in the chancery court of the county in which the sale is
35 made or in any county where personal property so sold may be found.

1 (B) In the event the property is recovered for the county
2 in the action, the purchaser shall not be entitled to a refund of the
3 consideration paid by him for the sale.

4 (2) The procedures for sale and conveyance of county property set
5 forth in this section shall not apply in those instances:

6 (A) where personal property of the county is traded in on
7 new or used equipment and credit, approximating the fair market price of such
8 personal property, is given the county toward the purchase price of new
9 equipment or

10 (B) where the sale of the personal property of the county
11 involves the sale by the county of any materials separated, collected,
12 recovered, or created by a recycling program authorized and operated by the
13 county.

14 (g) County hospitals constructed or maintained in whole or part by
15 taxes approved by the voters shall not be sold unless the sale is approved by
16 the majority of electors voting on the issue at a general or special election.
17 This subsection is applicable to county hospitals constructed before and after
18 July 20, 1987."

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20 SECTION 2. All provisions of this act of general and permanent nature
21 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
22 Revision Commission shall incorporate the same in the Code.

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24 SECTION 3. If any provisions of this act or the application thereof to
25 any person or circumstance is held invalid, the invalidity shall not affect
26 other provisions or applications of the act which can be given effect without
27 the invalid provisions or application, and to this end the provisions of this
28 act are declared to be severable.

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30 SECTION 4. All laws and parts of laws in conflict with this act are
31 hereby repealed.

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33 SECTION 5. Emergency. It is hereby found and determined by the
34 Seventy-Ninth General Assembly of the State of Arkansas that county
35 governments in Arkansas are operating recycling programs for solid waste; that

1 county recycling programs generate recyclable materials which can technically
2 be considered personal property of the county; that Arkansas law regulates the
3 manner in which personal property of the county can be sold; and that, since
4 the recycling markets are very time sensitive and price conscious, county
5 government recycling programs should be exempt for these restrictions and
6 procedures. Therefore, in order to permit county government to sell
7 recyclable materials more rapidly and competitively, an emergency is hereby
8 declared to exist, and this act being necessary for the immediate preservation
9 of the public peace, health, and safety, shall be in full force and effect
10 from and after its passage and approval.

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APPROVED: 3/26/93

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