

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

# A Bill

**HOUSE BILL 2106**

## **For An Act To Be Entitled**

8 "AN ACT TO AUTHORIZE THE ARKANSAS REAL ESTATE COMMISSION  
9 TO ISSUE *SUBPOENAS DUCES TECUM* IN CONNECTION WITH ITS  
10 INVESTIGATIONS AND HEARINGS; AND FOR OTHER PURPOSES."

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

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14 *SECTION 1. (a) The Arkansas Real Estate Commission shall have the*  
15 *power to issue subpoenas duces tecum.*

16 *(b) The subpoena duces tecum may require any book, writing, document,*  
17 *or other paper or thing which is germane to an investigation or hearing*  
18 *conducted by the Commission, to be transmitted to the Commission. No person*  
19 *shall be required to accompany the items which are the subject of the*  
20 *subpoena.*

21 *(c) Service of the subpoena shall be in the manner as now provided by*  
22 *law for the service of subpoenas in civil cases in the circuit courts of this*  
23 *state, and the fees and mileage of officers serving the subpoenas and of*  
24 *witnesses appearing in answer to the subpoenas shall be the same as provided*  
25 *by law for proceedings in civil cases in the circuit courts of this state.*

26 *(d) In the event a person shall have been served with a subpoena duces*  
27 *tecum as herein provided and fails to produce the books, writings, documents*  
28 *or other papers or things as directed by the subpoena, the Commission may*  
29 *apply to the circuit court of the county in which the Commission is conducting*  
30 *its investigation or hearing for an order causing the arrest of the person and*  
31 *directing that the person be brought before the court.*

32 *(3) The court shall have the power to punish the disobedient person for*  
33 *contempt as now provided by law in the trial of civil cases in the circuit*  
34 *courts of this state.*

35 *(e) The Commission shall issue a subpoena duces tecum upon the request*

1 of any party to a hearing before the Commission. The fees and milage of the  
 2 officers serving the subpoena and of the witness shall be paid by the party at  
 3 whose request a witness is subpoenaed.

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5 SECTION 2. Item (1) of Section 1 of Act 143 of 1991 is hereby amended  
 6 to read as follows:

7 "(1) 7103 REAL ESTATE EXECUTIVE SECRETARY 1 \$ 44,224 \$ 46,878"

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9 SECTION 3. REGULAR SALARIES. There is hereby established for the  
 10 Arkansas Real Estate Commission for the 1991-93 biennium, the following  
 11 maximum number of regular employees which shall be supplemental and in  
 12 addition to those positions authorized in Section 1 of Act 143 of 1991 and  
 13 whose salaries shall be governed by the provisions of the Uniform  
 14 Classification and Compensation Act (Arkansas Code §§21-5-201 et seq.), or its  
 15 successor, and all laws amendatory thereto. Provided, however, that any  
 16 position to which a specific maximum annual salary is set out herein in  
 17 dollars, shall be exempt from the provisions of said Uniform Classification  
 18 and Compensation Act. All persons occupying positions authorized herein are  
 19 hereby governed by the provisions of the Regular Salaries Procedures and  
 20 Restrictions Act (Arkansas Code §21-5-101), or its successor.

			Maximum Annual		
			Maximum	Salary Rate	
Item Class			No. of	Fiscal Years	
No.	Code	Title	Employees	1991-92	1992-93
25	(1)	REAL ESTATE ASST DEP EXEC SECY	<u>1</u>	\$33,983	\$35,682
26		MAXIMUM NO. OF EMPLOYEES	1		

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28 SECTION 4. APPROPRIATIONS. There is hereby appropriated, to the  
 29 Arkansas Real Estate Commission, to be payable from cash funds as defined by  
 30 Arkansas Code 19-4-801 of the Arkansas Real Estate Commission for personal  
 31 services of the Arkansas Real Estate Commission which shall be supplemental  
 32 and in addition to those funds appropriated in Section 3 of 143 of 1991, for  
 33 the biennial period ending June 30, 1993, the following:

ITEM		FISCAL YEARS	
NO.		1991-92	1992-93
36	(01) REGULAR SALARIES	\$35,993	\$38,236

1	(02) PERSONAL SERVICES MATCHING	<u>8,314</u>	<u>8,843</u>
2	TOTAL AMOUNT APPROPRIATED	<u>\$44,307</u>	<u>\$47,079</u>

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4 SECTION 5. All provisions of this act of a general and permanent nature  
5 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
6 Revision Commission shall incorporate the same in the Code.

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8 SECTION 6. If any provision of this act or the application thereof to  
9 any person or circumstance is held invalid, such invalidity shall not affect  
10 other provisions or applications of the act which can be given effect without  
11 the invalid provision or application, and to this end the provisions of this  
12 act are declared to be severable.

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14 SECTION 7. All laws and parts of laws in conflict with this act are  
15 hereby repealed.

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17 SECTION 8. EMERGENCY. It is hereby found and determined by the General  
18 Assembly that the Arkansas Real Estate Commission must have subpoena powers in  
19 order to conduct full and fair investigations and hearings concerning the  
20 activities of real estate brokers and salesmen, and that the absence of such  
21 authority threatens the public health, welfare and safety. Therefore, an  
22 emergency is hereby declared to exist and this act being necessary for the  
23 preservation of the public peace, health and safety shall be in full force and  
24 effect from and after its passage and approval.

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/s/ James Dietz

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