

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

A Bill

SENATE BILL 535

For An Act To Be Entitled

8 "AN AMENDMENT TO CHAPTER 6 OF TITLE 22 OF THE ARKANSAS
9 CODE CLARIFYING LAWS RELATING TO THE SALE OR OTHER
10 DISPOSITION OF STATE LANDS; AND FOR OTHER PURPOSES."

11

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

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14 SECTION 1. Arkansas Code Annotated 22-6-116 is hereby amended to read
15 as follows:

16 "22-6-116. Certificates by county collectors correcting or canceling
17 original certificates.

18 (a) When any county collector shall determine that the original
19 certification to the Commissioner of State Lands of any lands, or town or city
20 lots, should be canceled, corrected, or in any way changed, said official
21 shall issue a certificate to the Commissioner of State Lands. Such
22 certificate shall contain the legal description of the property, state the
23 change and state the appropriate manner in which to make such change.

24 (b) Upon receipt of any cancellation or correction certificate, the
25 Commissioner of State Lands shall determine whether the certificate offers
26 sufficient evidence to warrant cancellation or correction of the certification
27 of any real property. If the Commissioner determines that cancellation or
28 correction is warranted, the Commissioner of State Lands shall approve the
29 cancellation or correction certificate, amend the records of the Commissioner
30 of State Lands, forward the certificate to the county collector, and the
31 certificate shall be filed with the recorder of the county and properly
32 recorded in the deed records. A recorded copy of such certificate shall be
33 transmitted to any other county officials upon whose records the parcel is
34 recorded.

35 (c) Whenever a cancellation or correction certificate has been recorded

1 in the records of the Commissioner of State Lands, the Commissioner of State
2 Lands shall issue a cancellation or correction deed on property which has been
3 redeemed, sold, or otherwise disposed of as tax forfeited land. The
4 Commissioner shall forward the deed to be filed in the county where the
5 property is located.

6 (d) No recording fee shall be charged by or against the recorder on
7 any cancellation or correction certificate or on any cancellation or
8 correction deed issued by the Commissioner of State Lands.

9 (e) When any county assessor shall determine that the information on
10 tax delinquent parcels is erroneous, whether by legal description, name of
11 record owner, double assessment, or other cause, the assessor shall inform
12 the county collector of such change, and the county collector shall forward a
13 cancellation or correction certificate to the Commissioner of State Lands as
14 specified in subsection (a) of this section.

15 (f) Should information contained in the records of the Commissioner of
16 State Lands be found to be erroneous, whether by legal description, name of
17 record owner, or other cause, the Commissioner of State Lands may, at his
18 discretion, waive all or part of penalties and interests applied thereon as a
19 result of the inaccuracies."

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21 SECTION 2. Arkansas Code Annotated 22-6-201 through 22-6-204 are hereby
22 amended to read as follows:

23 "22-6-201. Purpose.

24 (a) It is the primary purpose and intent of this subchapter that when
25 islands are formed in navigable waters of this state, title to the islands
26 should be retained in the state if the island is appropriate for use by any
27 state agency or may become appropriate for any use by the state and that the
28 islands should be sold by the state only when it is determined that they have
29 no present or future use to the state.

30 (b) It is not the purpose of this subchapter to require any state
31 agency to accept the responsibility and duty for the operation, management, or
32 development of any island, but only that appropriate state agencies, as
33 determined by the Commissioner of State Lands, shall have an opportunity to
34 assume control over the islands.

35 (c) It is also the intent of this subchapter that when any state agency

1 accepts the duties and responsibility of operating, managing, or developing
2 any island, the agency shall have the authority to permit and regulate
3 activities upon the lands, including the cutting of timber. The agency may
4 use or permit the use of the lands for such purposes as it shall deem
5 appropriate.

6 (d) It is further the intent of this subchapter to establish the policy
7 that all submerged lands following the navigable waterways of this state shall
8 remain in the state domain. 'Submerged lands' shall be those lands found at
9 and below the line of ordinary highwater and shall include but not be limited
10 to the beds, channels, chutes, and adjoining areas of rivers, lakes, and
11 streams.

12

13 22-6-202. Property of state.

14 (a) All islands formed or which may form in the navigable waters of
15 this state are declared to be the property of the state, except as provided in
16 Section 22-6-204, and subject to sale and disposition in the manner and form
17 provided in this subchapter.

18 (b) The Commissioner of State Lands shall have full power and authority
19 to lease or grant submerged lands and the Commissioner shall promulgate rules
20 and regulations as may be necessary to effectively carry out the provisions of
21 this section and, upon adoption, such rules and regulations shall have the
22 full force and effect of law.

23

24 22-6-203. Disposition.

25 (a) The Commissioner of State Lands shall receive requests for
26 conveyance of title to an island previously formed in the navigable waters of
27 this state and not previously disposed of in the manner provided by law.

28 (b) (1) The Commissioner of State Lands shall inquire into the terrain
29 and other physical attributes of the island for the purpose of determining
30 which state agency, if any, would be most appropriate for operating, managing,
31 and developing the island.

32 (2) Upon making the determination, the Commissioner of State Lands
33 shall notify the agency which it finds to be most appropriate to operate and
34 manage the island and shall determine whether that agency is willing to accept
35 the authority and responsibility for operating and managing the island.

1 (3) If that agency is willing to accept authority and responsibility of
2 operating and managing the island, the Commissioner of State Lands shall hold
3 the state title to the island and the authority and duty to operate and manage
4 the island shall be vested in the agency.

5 (4) If the agency so notified does not desire to accept the
6 responsibility and duty to operate and manage the island, it shall notify the
7 Commissioner of State Lands who shall give the state agency which it deems
8 next most appropriate the option of accepting the authority and responsibility
9 of operating and managing the island.

10 (c)(1) When an agency agrees to accept the authority and responsibility
11 of operating and managing an island, the agency shall cause the island to be
12 accurately surveyed, compile field notes, and plat the lands in reference to
13 the adjacent lands by the extension of township, range, and section lines and
14 the agency shall pay the cost of the survey.

15 (2) Upon completion of the survey, a copy shall be filed with the
16 Commissioner of State Lands and, upon payment of one dollar (\$1.00)
17 consideration to the Commissioner of State Lands by the agency desiring to
18 accept the authority and responsibility of operating and managing the island,
19 *said authority and responsibility shall vest with the agency, and title shall*
20 *be in the name of the State of Arkansas and held by the Commissioner.*

21 (d) If the Commissioner of State Lands finds that an island is not
22 appropriate for operation, management, or use by any appropriate state agency,
23 and no state agency is desirous of accepting the responsibility and duty of
24 managing and operating the island, the Commissioner of State Lands may, at his
25 discretion and if the Commissioner determines that the best interest of the
26 state is being served, retain title to the island in the name of the state,
27 or, alternatively, the Commissioner may sell the island in a manner prescribed
28 by subsection (e) of this section.

29 (e)(1) Whenever the Commissioner of State Lands finds that any island
30 formed in the navigable waters of this state is not appropriate for use by any
31 state agency, and if no state agency is desirous of assuming the
32 responsibility and duty of operating and managing the island, the Commissioner
33 of State Lands may accept applications for purchase of the island.

34 (2) When the application is filed with the Commissioner of State Lands,
35 the Commissioner of State Lands shall cause the island to be accurately

1 surveyed, compile field notes, and plat the lands in reference to the adjacent
2 lands by the extension of township, range, and section lines.

3 (3) Thereafter, the lands shall be appraised and treated in all
4 respects and sold and conveyed by the state in a public manner and as
5 prescribed by the Commissioner of State Lands.

6 (4) The cost of the survey of any island made as required by this
7 section shall be added to the purchase price of the island.

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9 22-6-204. Confirmation of prior sales.

10 (a) All sales made by the Commissioner of State Lands pursuant to this
11 subchapter prior to July 1, 1991 are confirmed, and the title of all purchases
12 under the deeds from the Commissioner of State Lands are quieted, established,
13 and confirmed.

14 (b) The area described in any of the deeds as being conveyed shall
15 extend only to the line of ordinary highwater and shall not extend to the bed
16 or channels of the chutes or adjoining area which lies below the line of
17 ordinary highwater, the title to which formations below the line of ordinary
18 highwater is reserved in the State of Arkansas."

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20 SECTION 3. Arkansas Code Annotated 22-6-501 is hereby amended to read
21 as follows:

22 "22-6-501. Transfer to state institutions.

23 (a) The Commissioner of State Lands is authorized upon application of
24 the director of any state department or agency, the management or the board of
25 trustees of any state institution, or the chief executive of any county, city,
26 or school district of this state, to issue to the applying governmental unit a
27 deed for land listed on the Commissioner's records as having been forfeited
28 for the nonpayment of taxes. The application shall include the following:

- 29 (1) the proposed use of the land;
- 30 (2) the proposed duration for the stated use; and,
- 31 (3) the division or department designated for the maintenance
32 and operation of the property once deeded.

33 Moreover, the Commissioner of State Lands is authorized to accept the
34 application as submitted or recommend modifications to the application. The
35 Commissioner is further empowered to disallow any application determined by

1 the Commissioner to be contrary to the best interests to the health and
2 general welfare of the state and its citizens.

3 (b) The deed issued by the Commissioner of State Lands to a
4 state department or agency, state institution, city, county, or school
5 district shall contain restrictive covenants or reservations stating that
6 should the governmental unit no longer desire to use the land for the proposed
7 use stated in the application, said governmental unit shall submit a
8 subsequent letter of application to the Commissioner of State Lands to request
9 change in the use of the property and the Commissioner shall accept, modify,
10 or disallow the request. Moreover, should the governmental unit determine
11 that the property can no longer be utilized, the property shall revert to the
12 state, be held by the Commissioner of State Lands, and be treated as tax
13 forfeited land subject to the powers and authority of the Commissioner of
14 State Lands. Because this act applies to the disposition of tax forfeited
15 land, Arkansas Code Annotated 22-6-601 shall not apply herewith.

16 (c) No consideration shall be required for the transfer except the fee
17 of one dollar (\$1.00) as required by law.

18 (d) All deeds granted by the Commissioner of State Lands prior to the
19 passage of this section are confirmed, and the title of all purchases under
20 the deeds from the Commissioner of State Lands are quieted, established, and
21 confirmed. Collection of any outstanding ad valorem property tax indebtedness
22 shall be stayed by the Commissioner while title to the property remains with
23 the governmental unit. Should the property revert to the state pursuant to
24 subsection (b) herein, the property may be sold as prescribed by the
25 Commissioner of State Lands."

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27 SECTION 4. All provisions of this Act of a general and permanent nature
28 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
29 Revision Commission shall incorporate the same in the Code.

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31 SECTION 5. If any provision of this Act or the application thereof to
32 any person or circumstance is held invalid, such invalidity shall not affect
33 other provisions or applications of the Act which can be given effect without
34 the invalid provision or application, and to this end the provisions of this
35 Act are declared to be severable.

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

/s/Dowd