

*As Engrossed: 3/21/91*

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

# A Bill

**SENATE BILL 549**

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

8 "AN ACT TO AMEND CHAPTER 37 OF TITLE 26 OF THE ARKANSAS  
9 CODE TO PROVIDE FOR THE CLARIFICATION OF LAWS RELATING TO  
10 THE REDEMPTION AND SALE OF TAX-DELINQUENT REAL PROPERTY;  
11 AND FOR OTHER PURPOSES."

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

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15 SECTION 1. Section 37 (b) of Act 626 of 1983 as amended by Act 814 of  
16 1987, contained in the notes to Arkansas Code Annotated 26-37-101, is hereby  
17 amended to read as follows:

18 "(b) All tax delinquent land which had been or will be certified to the  
19 Commissioner of State Lands for tax years prior to 1981 but which has been  
20 neither sold nor redeemed shall not be subject to the provisions of Chapter  
21 37 of Title 26 of the Arkansas Code, or any law relating to the sale of land  
22 by the Commissioner, but may be sold by the Commissioner at public sales or by  
23 private negotiation for whatever price the Commissioner determines to be in  
24 the best interest of the state and its local taxing units."

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26 SECTION 2. Arkansas Code Annotated 26-37-204 is hereby amended to read  
27 as follows:

28 "26-37-204. Sales set aside.

29 (a) In the event the sale is set aside by legal action or if the land  
30 is proven to be nonexistent or double assessed, the purchaser shall be  
31 entitled to reimbursement of moneys paid.

32 (b) The Commissioner of State Lands shall have the authority to set  
33 aside any sale. In the event the Commissioner determines that a sale shall be  
34 set aside, the purchaser may be entitled to reimbursement of moneys paid to  
35 the Commissioner of State Lands.

1 (c) In cases where sales may be set aside by the Commissioner of State  
2 Lands or by legal action by the record owner or the heirs or assigns of the  
3 record owner, the record owner or the heirs or assigns of the record owner  
4 shall pay all back taxes, penalties, interest, and costs charged against the  
5 land.

6 (d) It is hereby determined by the general assembly that laws relating  
7 to the disposition of tax-delinquent real property are in need of  
8 clarification. Therefore, in order to facilitate the tax redemption and sale  
9 process and encourage use of the land, this section shall be in full force and  
10 effect on July 1, 1991."

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12 SECTION 3. Arkansas Code Annotated 26-37-205 is hereby amended to read  
13 as follows:

14 "26-37-205. Distribution of Funds.

15 (a) All moneys collected by the Commissioner of State Lands from the  
16 sale or redemption of tax delinquent lands shall be distributed as follows:

17 (1) First, to the Commissioner of State Lands, the penalties, the  
18 collection fees, sale costs, and other costs as prescribed by law ;

19 (2) Second, an amount to each county equal to the taxes due plus  
20 interest and costs to the county as certified by the county tax collector,  
21 which amount shall be held in an escrow fund administered by the Commissioner  
22 and remitted to the counties within one calendar year of their receipt by the  
23 Commissioner;

24 (3) Third, the remainder, if any, shall be placed in another  
25 escrow fund administered by the Commissioner.

26 (b) If no actions are brought within two (2) years after the date of  
27 conveyance as provided in 26-37-202, the remaining funds, if any, shall be  
28 distributed by the Commissioner as follows:

29 (1) To former owners of the tax delinquent land. Such former  
30 owners must file an application with the Commissioner requesting the release  
31 of any remaining funds. The application shall be provided by the Commissioner  
32 of State Lands and shall require proof of ownership. In addition, the  
33 application may require other information the Commissioner may deem necessary  
34 to obtain prior to the release of said funds. In the event of multiple claims  
35 of ownership or controversy regarding the release of such funds, it shall be

1 the responsibility of the parties seeking release of the funds to resolve such  
2 controversy.

3           (2) The funds shall be held in escrow for five (5) more years and  
4 at the end of such five (5) year period, if the funds have not been  
5 distributed, the escrow funds shall escheat to the county wherein the property  
6 is located.

7           (c) All funds distributed to each county by the Commissioner of State  
8 Lands from the redemption or sale of tax-delinquent lands, including any  
9 interest and costs, are to be distributed to the applicable taxing units where  
10 the delinquent land is located within the county in the manner and proportion  
11 that the taxes would have been distributed if they had been collected in the  
12 year due.

13           (d) All funds received by a county from the redemption of tax-  
14 delinquent land at the county level, including any penalty, interest, and  
15 costs, are to be distributed to the applicable taxing units where the  
16 delinquent land is located within the county in the manner and proportion that  
17 the taxes would have been distributed if they had been collected in the year  
18 due.

19           (e) It is the intent of the General Assembly of the State of Arkansas  
20 that the provisions of this section be applied retroactively to sales taking  
21 place prior to the effective date of this act as well as sales taking place  
22 thereafter. Furthermore, it is hereby found and determined by the Seventy-  
23 Eighty General Assembly that current law excludes former owners from  
24 distribution of remaining funds and that such exclusion creates an unnecessary  
25 hardship on former owners at this time. Moreover, tax delinquent land sales  
26 are scheduled to commence prior to the regular effective date of acts passed  
27 by the Seventy-Eighth General Assembly, making this enacting date necessary in  
28 order to prevent additional hardships to former owners. Therefore, this  
29 section shall be in full force and effect from and after the passage and  
30 approval of this act."

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

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1 SECTION 5. If any provision of this act or the application thereof to  
2 any person or circumstance is held invalid, such invalidity shall not affect  
3 other provisions or applications of the act which can be given effect without  
4 the invalid provision or application, and to this end the provisions of this  
5 act are declared to be severable.

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7 SECTION 6. All laws or parts of laws in conflict with this act are  
8 hereby repealed.

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10 SECTION 7. EMERGENCY. It is hereby found and determined by the General  
11 Assembly that the laws relating to the redemption and sale of tax-delinquent  
12 real property are in need of clarification. Therefore, an emergency is hereby  
13 declared to exist and this act being necessary for the immediate preservation  
14 of the public peace, health and safety shall be in full force and effect from  
15 and after July 1, 1991 or as otherwise specified in a particular section  
16 thereof.

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18 /s/Dowd  
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