

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

# A Bill

**SENATE BILL**

## For An Act To Be Entitled

8 "AN ACT TO CLARIFY THE DISPOSITION OF RESIDUAL FUNDS AFTER  
9 LITIGATION UNDER ARTICLE 16, SECTION 13 OF THE ARKANSAS  
10 CONSTITUTION; AND FOR OTHER PURPOSES."

## Subtitle

13 "TO CLARIFY THE DISPOSITION OF RESIDUAL FUNDS AFTER  
14 LITIGATION UNDER ARTICLE 16, SECTION 13 OF THE ARKANSAS  
15 CONSTITUTION."

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

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19 SECTION 1. Arkansas Code Annotated 26-35-902 is amended to read as  
20 follows:

21 "26-35-902. Award of attorney's fees and disposition of residual funds.

22 (a) It is the public policy of this state that circuit and chancery  
23 courts may, in meritorious litigation brought under Arkansas Constitution,  
24 Article 16, Section 13, in which the court orders any county, city, or town to  
25 refund or return to taxpayers moneys illegally exacted by the county, city, or  
26 town, apportion a reasonable part of the recovery of the class members to  
27 attorneys of record and order the return or refund of the balance to the  
28 members of the class represented.

29 (b) If after expiration of a reasonable period of time for the filing  
30 of claims for the illegally exacted moneys as ordered by the court, residual  
31 funds exist, said residual funds shall be deemed abandoned and escheat to the  
32 county, city, or town which exacted same."

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34 SECTION 2. All provisions of this act of a general and permanent nature  
35 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code

1 Revision Commission shall incorporate the same in the Code.

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

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10 hereby repealed.

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12         SECTION 5. EMERGENCY. It is hereby found and determined by the General  
13 Assembly that significant confusion among the courts of the state exists  
14 concerning the disposition of residual funds of illegal exaction cases and in  
15 order to protect the interests of the State of Arkansas and the residents  
16 thereof, an emergency is hereby declared to exist, and this act being  
17 immediately necessary for the preservation of the public peace, health, and  
18 safety shall be in full force and effect from and after its passage and  
19 approval.

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