

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

# A Bill

**SENATE BILL**

## For An Act To Be Entitled

8 "AN ACT TO PROVIDE FOR THE PROCEDURE FOR CONFIRMING AND  
9 QUIETING TITLE TO REAL PROPERTY FORFEITED AND CONVEYED TO  
10 THE STATE FOR THE NONPAYMENT OF TAXES AND TO REPEAL  
11 ARKANSAS CODE ANNOTATED SECTIONS 26-38-108 THROUGH 26-38-  
12 123; AND FOR OTHER PURPOSES."

## Subtitle

14 "PROCEDURE FOR CONFIRMING AND QUIETING TITLE TO REAL  
15 PROPERTY FORFEITED TO THE STATE FOR NONPAYMENT OF TAXES."  
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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20 SECTION 1. Suit to confirm title to land in state. (a) Whenever any  
21 real property, sectional, or town or city lots, has been forfeited to the  
22 state of Arkansas and conveyed by certification to the Commissioner of State  
23 Lands for the nonpayment of taxes, the state may file a suit for confirmation  
24 of title in the chancery court, wherein the real property lies, requesting  
25 that the title to the real property be confirmed and quieted in the state of  
26 Arkansas, in care of the Commissioner of State Lands, in fee simple.

27 (b) Suit to confirm title by the state may be filed at any time  
28 subsequent to the conveyance by certification. Further, the state may elect  
29 to file for confirmation subsequent to conveyance from the state to any  
30 purchaser, donee, or redemtor. In the event confirmation is filed following  
31 a conveyance from the state, the decree of confirmation shall inure to the  
32 benefit of the purchaser, donee, or redemtor of the lands.

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34 SECTION 2. Petition. The Commissioner of State Lands, on behalf of the  
35 state of Arkansas, shall file in the office of the clerk of the chancery court

1 of the county in which the forfeited real property is situated, a petition  
2 requesting that title be confirmed in the real property described therein.  
3 The petition shall have a certified list attached to it, describing the real  
4 property and containing the years and the amounts for which each parcel was  
5 forfeited. The petition may include as many parcels of land as the  
6 commissioner deems proper so long as all parcels lie within the county. Such  
7 certified list shall be all the proof that shall be required to show prima  
8 facie title in the state.

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10 SECTION 3. Parties to suit. (a) Any person, firm, corporation, or  
11 improvement district claiming any interest in any parcel of real property  
12 adverse to the state shall have the right to be made a party to a suit, and if  
13 made a party, the claims of any such person, firm, corporation, or improvement  
14 district shall be adjudicated.

15 (b) If any person, firm, corporation, or improvement district sets up  
16 the defense that the conveyance to the state was void for any cause, the  
17 person, firm, corporation, or improvement district shall tender to the clerk  
18 of the court the amount of taxes, penalties, interest and costs due and owing  
19 on the parcel.

20 (c) In case any person, firm, corporation, or improvement district so  
21 made a party defendant to the proceeding, as provided in this section, shall  
22 establish a valid defense a decree of the court shall be rendered in favor of  
23 the defendant, with respect to the parcel so affected, and the decree shall  
24 order the defendant to pay all taxes, penalties, interest, and costs due on  
25 the parcel. Thereafter, the Commissioner of State Lands shall issue a Deed of  
26 Redemption. In the event the defendant fails to establish a valid defense, an  
27 order so stating will be entered and the defendant will be allowed to recover  
28 the funds tendered to the clerk pursuant to paragraph (b) of this section.

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30 SECTION 4. Publication of notice. (a) Upon the filing of the  
31 petition, there shall be published for four (4) consecutive weeks, once per  
32 week, in a newspaper having general circulation in the county wherein the real  
33 property is located, a notice calling on all persons, firms, corporations, or  
34 improvement districts who can set up any right to the real property so  
35 conveyed and forfeited, to show cause why the title to the real property

1 should not be confirmed, quieted, and vested in the state of Arkansas in fee  
2 simple.

3 (b) The notice shall set forth the description of the real property and  
4 the name of the person, firm, or corporation last paying taxes thereon.

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6 SECTION 5. Effect of the decree of confirmation. (a) The decree of  
7 the chancery court confirming the forfeiture and conveyance to the state of  
8 real property shall operate, except only as expressly provided in this  
9 section, as a complete bar, both at law and in equity, against any and all  
10 persons, firms, corporation, quasi-corporations, associations, trustees, and  
11 holders of beneficial interests who may hereafter assert or defend claims to  
12 the real property and as a vesting of the complete and indefensible title to  
13 the real property in the state and its grantees in fee simple, free and clear  
14 of all such claims.

15 (b) It shall so operate, regardless of whether such forfeiture and  
16 conveyance may have been void or voidable because of defects or irregularities  
17 occurring in the proceedings therefor.

18 (c) All parties shall have the right to appeal any decree of  
19 confirmation pursuant to the Arkansas Rules of Civil Procedure. Any person,  
20 firm, corporation, quasi-corporation, association, trustees, and holders of  
21 beneficial interest whose interest in the property is properly recorded but is  
22 not properly served notice of the confirmation proceedings, shall have one (1)  
23 year from and after rendition to attack the decree insofar as it relates to  
24 his real property. All attacks upon the decree made after the one (1) year  
25 period shall be taken to be collateral attacks and shall be wholly  
26 ineffectual.

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28 SECTION 6. Decree. (a) The decree of a chancery court confirming the  
29 forfeiture and conveyance to the state of real property shall inure to the  
30 benefit of the purchaser, donee, or redemtor of the real property.

31 (b) Fees and costs associated with the filing of confirmation suits may  
32 be charged to any purchaser, donee, or redemtor to whose benefits the decree  
33 of confirmation inures.

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35 SECTION 7. Court costs and publication fees. The state shall be exempt

1 from payment of court costs. Fees for publication of notices required under  
2 the act shall be governed by Arkansas Code Annotated 26-37-108.

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4 SECTION 8. Severed mineral rights. The provisions of this act shall be  
5 applicable to severed mineral interests that are forfeited and conveyed to the  
6 state for the nonpayment of taxes. Wherever the terms real property,  
7 parcel(s), or parcel of real property appear, the same shall also mean severed  
8 mineral interests.

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10 SECTION 9. Application. The provisions of this act are applicable to  
11 all forfeitures and conveyances to the state or from the state whether such  
12 forfeiture or conveyance occurred before or after the effective date of this  
13 act.

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15 SECTION 10. All provisions of this act of a general and permanent  
16 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
17 Code Revision Commission shall incorporate the same in the Code.

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19 SECTION 11. Arkansas Code Annotated §§26-38-108 through 26-38-123 are  
20 hereby repealed.

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22 SECTION 12. If any provision of this act or the application thereof to  
23 any person or circumstance is held invalid, such invalidity shall not affect  
24 other provisions or applications of the act which can be given effect without  
25 the invalid provision or application, and to this end the provisions of this  
26 act are declared to be severable.

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28 SECTION 13. All laws and parts of laws in conflict with this act are  
29 hereby repealed.

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31 SECTION 14. EMERGENCY. It is hereby found and determined by the  
32 General Assembly that a method of strengthening and validating the title of  
33 the state and its grantees to real property forfeited for nonpayment of taxes  
34 must be established; that, in order to accomplish this purpose, the state  
35 shall be authorized to file confirmation proceedings against real property

1 that is forfeited and conveyed to the state for the nonpayment of taxes; that,  
2 the purpose of this act is to cure all irregularities, informalities, and  
3 defects connected with the procedures of forfeiture and sale. Further, a  
4 decree of confirmation shall act as a complete bar against any and all  
5 persons, firms, corporations, quasi-corporations, associations, trustees, and  
6 holders of beneficial interests who may claim the real property, subject only  
7 to the exceptions set forth in this act. Therefore, 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 from  
10 and after its passage and approval.

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