

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

# A Bill

**SENATE BILL**

## For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE § 14-16-105 TO EXEMPT  
9 RECYCLABLE MATERIALS FROM A COUNTY GOVERNMENT RECYCLING  
10 PROGRAM FROM THE RESTRICTIONS ON THE SALE OF COUNTY  
11 PROPERTY; TO DECLARE AN EMERGENCY; AND FOR OTHER  
12 PURPOSES."

## Subtitle

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15 "AN ACT TO EXEMPT RECYCLABLE MATERIALS FROM A COUNTY  
16 GOVERNMENT RECYCLING PROGRAM FROM THE RESTRICTIONS ON THE  
17 SALE OF COUNTY PROPERTY."

18  
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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21 SECTION 1. Arkansas Code § 14-16-105 is hereby amended to read as  
22 follows:

23 "14-16-105. Sale of county property generally.

24 (a) The county court of each county shall have power and jurisdiction  
25 to sell and cause to be conveyed any real estate or personal property  
26 belonging to the county and to appropriate the proceeds of the sale for the  
27 use of the county by proceeding in the manner set forth in this section.

28 (b)(1) Whenever the county judge of any county shall consider it  
29 advisable and to the best interest of the county to sell and convey any real  
30 or personal property belonging to the county, he shall cause an order to be  
31 entered in the county court setting forth:

32 (A) A description of the property to be sold;

33 (B) The reason for the sale; and

34 (C) An order directing the county assessor to cause the

35 property to be appraised at its fair market value and to certify his appraisal

1 thereof to the county court within a time to be specified in the order.

2           (2) A certified copy of the order shall be delivered to the  
3 county assessor by the county clerk, and the county clerk shall certify the  
4 date of the delivery of the copy on the margin of the record where the order  
5 is recorded.

6           (3) An order and these procedures prescribed in this section  
7 shall not be required for any sale by the county of any materials separated,  
8 collected, recovered, or created by a recycling program authorized and  
9 operated by the county. However, the county judge shall maintain a record of  
10 the recyclable materials sold, whether they were sold at public or private  
11 sale, a description of the recyclables sold, the name of the purchaser, the  
12 terms of the sale, and all the proceeds of the sale shall be deposited with  
13 the county treasurer.

14           (c) (1) Upon receipt of the certified copy of the order, the county  
15 assessor shall view the property described in the order and shall cause it to  
16 be appraised at its fair market value.

17           (2) Within the time specified in the order, the assessor shall  
18 file with the county clerk his written certificate of appraisal of the  
19 property.

20           (d) (1) If the appraised value of the property described in the order is  
21 less than the sum of five hundred dollars (\$500), the property may thereafter  
22 be sold and conveyed by the county judge, either at public or private sale,  
23 for not less than three-fourths (3/4) of the appraised value as shown by the  
24 certificate of appraisal filed by the assessor.

25           (2) (A) When the sale has been completed, the county court shall  
26 enter its order approving the sale.

27                           (B) The order shall set forth:

- 28                                   (i) The description of the property sold;
- 29                                   (ii) The name of the purchaser;
- 30                                   (iii) The terms of the sale; and
- 31                                   (iv) (a) That the proceeds of the sale have been  
32 deposited with the county treasurer; and

33   (b) The funds to which the proceeds were  
34 credited by the county treasurer.

35           (e) (1) (A) If the appraised value of the property to be sold exceeds the

1 sum of five hundred dollars (\$500), the county judge may sell the property to  
2 the highest and best bidder upon sealed bids received by the judge. The  
3 sheriff, the treasurer, and the circuit clerk of the county in which the  
4 property is to be sold shall constitute a board of approval for such sales,  
5 and the judge shall be the ex officio chairman of the board without a vote.

6 (B) Such property, when it exceeds the appraised value of  
7 five hundred dollars (\$500), shall not be sold for less than three-fourths  
8 (3/4) of its appraised value as determined by the certificate of the assessor.

9 (2) (A) Notice of the sale shall be published for two (2)  
10 consecutive weekly insertions in some newspaper published and having a general  
11 circulation in the county.

12 (B) The notice shall specify:

13 (i) The description of the property to be sold;

14 (ii) The time and place for submitting written bids;

15 and

16 (iii) The appraised value of the property to be sold.

17 (C) The notice shall be dated and signed by the judge.

18 (3) The judge shall have the right to reject any and all bids  
19 received by him pursuant to the notice.

20 (4) (A) When a bid has been accepted for the property by the  
21 judge, he, as chairman of the approval board, shall immediately call a meeting  
22 of the board, and the proposals to sell at the acceptable bid shall be  
23 submitted to the board for its approval.

24 (B) (i) If a majority of the board approves the sale, then  
25 the judge may sell and convey the property to the highest bidder;

26 (ii) When the sale has been so approved and  
27 completed, the county court shall enter an order approving the sale, which  
28 shall set forth the details of the sale as provided in subsection (d) of this  
29 section.

30 (f) (1) (A) Any sale or conveyance of real or personal property belonging  
31 to any county not made pursuant to the terms of this section shall be null and  
32 void. Any taxpayer of the county may, within two (2) years from the date a  
33 sale is consummated, bring an action to cancel the sale and to recover  
34 possession of the property sold. This action for the use and benefit of the  
35 county is to be taken in the chancery court of the county in which the sale is

1 made or in any county where personal property so sold may be found.

2 (B) In the event the property is recovered for the county  
3 in the action, the purchaser shall not be entitled to a refund of the  
4 consideration paid by him for the sale.

5 (2) The procedures for sale and conveyance of county property set  
6 forth in this section shall not apply in those instances:

7 (A) where personal property of the county is traded in on  
8 new or used equipment and credit, approximating the fair market price of such  
9 personal property, is given the county toward the purchase price of new  
10 equipment or

11 (B) where the sale of the personal property of the county  
12 involves the sale by the county of any materials separated, collected,  
13 recovered, or created by a recycling program authorized and operated by the  
14 county.

15 (g) County hospitals constructed or maintained in whole or part by  
16 taxes approved by the voters shall not be sold unless the sale is approved by  
17 the majority of electors voting on the issue at a general or special election.  
18 This subsection is applicable to county hospitals constructed before and after  
19 July 20, 1987."

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21 SECTION 2. All provisions of this act of general and permanent nature  
22 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
23 Revision Commission shall incorporate the same in the Code.

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25 SECTION 3. If any provisions of this act or the application thereof to  
26 any person or circumstance is held invalid, the invalidity shall not affect  
27 other provisions or applications of the act which can be given effect without  
28 the invalid provisions or application, and to this end the provisions of this  
29 act are declared to be severable.

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

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34 SECTION 5. Emergency. It is hereby found and determined by the  
35 Seventy-Ninth General Assembly of the State of Arkansas that county

1 governments in Arkansas are operating recycling programs for solid waste; that  
2 county recycling programs generate recyclable materials which can technically  
3 be considered personal property of the county; that Arkansas law regulates the  
4 manner in which personal property of the county can be sold; and that, since  
5 the recycling markets are very time sensitive and price conscious, county  
6 government recycling programs should be exempt for these restrictions and  
7 procedures. Therefore, in order to permit county government to sell  
8 recyclable materials more rapidly and competitively, an emergency is hereby  
9 declared to exist, and this act being necessary for the immediate preservation  
10 of the public peace, health, and safety, shall be in full force and effect  
11 from and after its passage and approval.

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