

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: S3/17/03

A Bill

SENATE BILL 743

5 By: Senators Madison, Womack, Luker
6 By: Representative C. Taylor
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For An Act To Be Entitled

9 AN ACT TO ENHANCE OUR CITIZENS' ACCESS TO COURTS
10 TO ADDRESS ILLEGAL EXACTION BY THE GOVERNMENT AND
11 TO HELP ASSURE THE PROPER USE OF PUBLIC
12 RESOURCES; AND FOR OTHER PURPOSES.
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Subtitle

16 TO ENHANCE OUR CITIZENS' ACCESS TO
17 COURTS TO ADDRESS ILLEGAL EXACTION BY
18 THE GOVERNMENT AND TO HELP ASSURE THE
19 PROPER USE OF PUBLIC RESOURCES.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. Arkansas Code § 26-35-902 is amended to read as follows:

27 26-35-902. Award of attorneys' fees - Disposition of residual funds.

28 (a) It is the public policy of this state that circuit ~~and chancery~~
29 courts may, in meritorious litigation brought under Arkansas Constitution,
30 Article 16, § 13, in which the court orders any county, city, or town to
31 refund or return to taxpayers moneys illegally exacted by the county, city,
32 or town, apportion a reasonable part of the recovery of the class members to
33 attorneys of record and order the return or refund of the balance to the
34 members of the class represented.

35 (b) If, after expiration of a reasonable period of time for the filing
36 of claims for the illegally exacted moneys as ordered by the court, residual



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1 funds exist, said residual funds shall be deemed abandoned and escheat to the
2 county, city, or town which exacted same.

3 (c)(1) Reasonable attorney's fees shall be awarded if a meritorious
4 action brought by a taxpayer under Article 16, § 13 of the Arkansas
5 Constitution results in:

6 (1) The recovery of public property for the substantial benefit
7 of a public entity or Arkansas taxpayers;

8 (2) A court of final jurisdiction issuing an injunction
9 enjoining the expenditure or misapplication of public funds; or

10 (3) A declaration by a court of final jurisdiction that an
11 Arkansas code provision or local ordinance is unconstitutional, and no refund
12 of taxes is ordered by the court.

13 (4) Time spent and other factors established by common law shall
14 be considered to determine the reasonableness and adequacy of an award of
15 attorneys' fees under the facts of each particular case.

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17 /s/ Madison
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