

1 State of Arkansas  
2 89th General Assembly  
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4

*As Engrossed: H3/22/13*

# A Bill

HOUSE BILL 1823

5 By: Representative Ballinger  
6 *By: Senator Rapert*  
7

## For An Act To Be Entitled

9 AN ACT TO REGULATE THE ADMINISTRATION OF REAL  
10 PROPERTY OF THE STATE AND POLITICAL SUBDIVISIONS OF  
11 THE STATE; AND FOR OTHER PURPOSES.  
12  
13

### Subtitle

15 TO REGULATE THE ADMINISTRATION OF REAL  
16 PROPERTY OF THE STATE AND POLITICAL  
17 SUBDIVISIONS OF THE STATE.  
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19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

22 *SECTION 1. Arkansas Code § 22-5-209 is amended to read as follows:*

23 *22-5-209. Deeds, abstracts, and contracts affecting state lands filed*  
24 *in office of Commissioner of State Lands – Additional information – Failure*  
25 *to comply.*

26 *(a) All deeds, abstracts, contracts, and other evidences of title to*  
27 *realty belonging to the State of Arkansas shall be filed in the office of the*  
28 *Commissioner of State Lands to be preserved by the Commissioner of State*  
29 *Lands as ~~the~~ other public records and files of his or her office.*

30 *(b) Separately for each item of real property in the possession of a*  
31 *state agency, the state agency shall maintain and furnish to the Commissioner*  
32 *of State Lands a record containing:*

33 *(1)(A) The official recording information shown by the county*  
34 *recorder's records and the legal description of the real property.*

35 *(B) A copy of the most recent deed to the property may be*  
36 *furnished to the Commissioner of State Lands if the copy contains the*



1 official recording information and the legal description;

2 (2) If the real property was purchased by a state agency, the  
3 date of purchase and the purchase price;

4 (3) The name of the state agency holding title to the real  
5 property for the state;

6 (4) A description of the current uses of the real property and  
7 of the projected future uses of the real property; and

8 (5) A description of each building or other improvement located  
9 on the real property.

10 (c) If the description of real property required under subsection (b)  
11 of this section is excessively voluminous, the Commissioner of State Lands  
12 may permit the state agency in possession of the real property to furnish the  
13 description in summary form.

14 (d) Annually at the time established by the Commissioner of State  
15 Lands, a state agency other than an institution of higher education shall  
16 furnish the Arkansas History Commission with a photograph and identifying  
17 information including the age of each building that:

18 (1) Is owned or controlled by the state agency and has become  
19 forty-five (45) years old since the date the information was previously  
20 submitted; or

21 (2) Was acquired by the agency after the date of the preceding  
22 annual submission and is at least forty-five (45) years old on the date of  
23 the current submission.

24 (e) Upon request, a state agency shall provide the Commissioner of  
25 State Lands with a photograph and information furnished to the Arkansas  
26 History Commission under subsection (d) of this section.

27 (f) If a state agency receives a proposal for the sale, transfer, or  
28 exchange of real property that may benefit the state, the state agency shall  
29 within fourteen (14) days and before accepting the proposal shall submit to  
30 the Commissioner of State Lands:

31 (1) A summary of the proposal;

32 (2) An evaluation of the proposed real estate transaction  
33 including an analysis of the anticipated costs, benefits, and detriments of  
34 the proposal; and

35 (3) The state agency's recommendation and reasons for the  
36 recommendation.

1 ~~(b)(g)~~ ~~In the event any state office, department, agency, or~~  
 2 ~~institution fails or refuses to~~ If a state agency does not ~~comply with the~~  
 3 ~~provisions of subsection (a) of this section, the Commissioner of State Lands~~  
 4 ~~shall report the failure or refusal to comply to the Governor, who shall~~  
 5 ~~notify the administrative officer of the office, department, state agency, or~~  
 6 ~~institution to immediately report to him or her the reasons for his or her~~  
 7 ~~the state agency's failure or refusal to comply.~~

8 ~~(e)(h)~~ ~~Willful failure or refusal to comply with this section by any~~  
 9 ~~officer~~ a public official shall constitute nonfeasance in office.

10 (i) As used in this section:

11 (1)(A) "State agency" means an instrumentality of state  
 12 government including without limitation, an office, a department, an agency,  
 13 a board, a commission, or an institution of the state.

14 (B) "State agency" does not include"

15 (i) The Arkansas State Highway and Transportation  
 16 Department;

17 (ii) An institution of higher education;

18 (iii) The Arkansas Public Employees' Retirement  
 19 System;

20 (iv) The Arkansas Teacher Retirement System;

21 (v) The Arkansas State Game and Fish Commission; or

22 (vi) The Arkansas Department of Emergency  
 23 Management.

24  
 25 SECTION 2. Arkansas Code Title 22, Chapter 5, Subchapter 2, is amended  
 26 to add an additional section to read as follows:

27 22-5-210. Real property records of the Arkansas State Highway and  
 28 Transportation Department, institutions of higher education, the Arkansas  
 29 Public Employees' Retirement System, the Arkansas Teacher Retirement System,  
 30 and certain other properties.

31 (a) With respect to real property administered by the Arkansas State  
 32 Highway and Transportation Department, an institution of higher education,  
 33 the Arkansas Public Employees' Retirement System, and the Arkansas Teacher  
 34 Retirement System:

35 (1) The Arkansas State Highway and Transportation Department, an  
 36 institution of higher education, the Arkansas Public Employees' Retirement

1 System, and the Arkansas Teacher Retirement System shall each maintain  
2 inventory records of the real property it owns or controls; and

3 (2) The Commissioner of State Lands may:

4 (A) Review, verify, and maintain inventory records of the  
5 real property; and

6 (B) Prepare reports and make recommendations concerning  
7 the best use of the real property.

8 (b) At the request of the Commissioner of State Lands:

9 (1) The Arkansas State Highway and Transportation Department  
10 shall submit its real property inventory records that are not related to the  
11 roadways and bridges it maintains; and

12 (2) No more than semiannually, the real property inventory  
13 records of an institution of higher education, the Arkansas State Game and  
14 Fish Commission, the Arkansas Public Employees' Retirement System, and the  
15 Arkansas Teacher Retirement System, may be submitted to the Commissioner of  
16 State Lands for information purposes only.

17 (c) The duties of the Commissioner of State Lands under this  
18 subchapter and § 22-5-301 et seq. do not apply to:

19 (1) Real property that is owned by the state but is managed by  
20 the federal Government;

21 (2) The real property composing the State Capitol Complex;

22 (3) The real property composing the Governor's Mansion;

23 (4) The real property composing the Arkansas State Veterans  
24 Cemetery;

25 (5) Highway rights-of-way owned by the Arkansas State Highway  
26 and Transportation Department;

27 (6) The real property composing the Old State House Museum; and

28 (7) The real property owned by the Arkansas Department of  
29 Emergency Management.

30  
31 *SECTION 3. Arkansas Code § 22-5-303 is amended to read as follows:*

32 *22-5-303. Additional duties of Commissioner of State Lands.*

33 *In addition to other duties and powers conferred by law upon the*  
34 *Commissioner of State Lands, he or she shall ~~have the following duties and~~*  
35 *~~powers:~~*

36 *(1) ~~To effectuate~~ Effectuate the policies and carry out the*

1 ~~purposes~~ declared in § 22-5-301, ~~to carry out its purposes~~ including by  
 2 securing the cooperation and assistance of the United States and any of its  
 3 agencies, and to enter entering into contracts, agreements, and conveyances  
 4 necessary to secure ~~such~~ federal assistance;

5 (2) ~~To conduct~~ Conduct investigations, independently or jointly  
 6 with other state and federal agencies, relating to conditions and factors  
 7 affecting, and methods of accomplishing more effectively, the purposes of  
 8 this subchapter;

9 (3) ~~To assign~~ Assign lands to the several state agencies for  
 10 administration, subject to their agreement and acceptance;

11 (4) Review, compile, and maintain inventory records of the real  
 12 property owned by the State of Arkansas based upon the information submitted  
 13 under §§ 22-5-209 and 22-5-411, and the records in his or her office;

14 (5) Make recommendations and take appropriate action concerning  
 15 the best use of land owned by the state and its political subdivisions; and

16 (6) Accept unsolicited proposals and may solicit proposals  
 17 concerning real estate transactions that would benefit the state.

18  
 19 SECTION 4. Arkansas Code § 22-5-305(b), concerning the membership of  
 20 the State Land Use Committee, is amended to read as follows:

21 (b) The Commissioner of State Lands shall appoint one (1) member from  
 22 each of the ~~seven (7)~~ four (4) congressional districts and ~~two (2)~~ five (5)  
 23 members at large for a term of two (2) years.

24  
 25 SECTION 5. Arkansas Code § 22-5-306 is amended to read as follows:

26 22-5-306. Appraisers – Qualifications, oath, and bond.

27 (a) The Commissioner of State Lands ~~shall~~ may appoint ~~such~~  
 28 ~~as are provided for by any appropriation~~ appraisers to inspect and appraise state-owned  
 29 lands for sale, transfer, or donation.

30 (b) ~~It shall be unlawful for the Commissioner of State Lands to~~  
 31 ~~dispose of state-owned lands without an appraisal made by appraisers~~  
 32 ~~appointed by the Commissioner of State Lands, except that he or she may sell~~  
 33 ~~or dispose of town lots and acreage descriptions of ten (10) acres or less~~  
 34 ~~without an appraisal.~~

35 (e)(b) Each appraiser selected shall, by education or experience, be  
 36 familiar with and know how to arrive at the value of lands, water rights,

1 mineral rights, timber lands, rural lands, agricultural lands, and  
2 noncultivable lands; shall understand legal descriptions of real properties;  
3 shall have a working knowledge of county and state real property records; and  
4 shall be capable of passing dependable judgments upon the values of rural  
5 properties.

6 ~~(d)~~(c) Upon entering the duties of his or her office, each appraiser  
7 shall take an oath of office as prescribed in the Arkansas Constitution,  
8 Article 19, § 20. This oath shall state that he or she will not, directly or  
9 indirectly, be engaged in the purchase of state-owned lands during his or her  
10 continuance in office and that he or she will not engage in any speculation  
11 of state-owned lands or give information to any agent, friend, or secret or  
12 other partner so as to secure the advantages of that information to himself  
13 or herself or to any person, association, or company to the prejudice or  
14 exclusion of other persons.

15 ~~(e)~~(d) Each appraiser shall enter into bond to the state in the sum of  
16 one thousand dollars (\$1,000), to be furnished by a surety company authorized  
17 to do business in the State of Arkansas, conditioned that he or she will  
18 faithfully discharge all of his or her duties according to law and the rules  
19 and regulations of the State Land Use Committee.

20 ~~(f)~~(e) After qualifying as provided in this section, each appraiser  
21 shall perform his or her duties in the manner prescribed by the Commissioner  
22 of State Lands.

23  
24 SECTION 6. Arkansas Code § 22-5-307(b), concerning the disposition of  
25 state lands, is amended to read as follows:

26 (b)(1) The Commissioner of State Lands shall dispose of the lands and  
27 make deeds to the lands in accordance with ~~this~~ the classification under  
28 subsection (a) of this section.

29 (2) Only With the approval of the Governor and review by the  
30 General Assembly or the Legislative Council, lands classified as suitable for  
31 return to private ownership ~~shall be subject to sale~~ may be sold under § 22-  
32 5-312 and subsection (e) of this section to private ~~individuals~~ parties by  
33 the Commissioner of State Lands.

34  
35 SECTION 7. Arkansas Code § 22-5-307, concerning the disposition of  
36 state lands, is amended to add an additional subsection to read as follows:

1 (h) Tax delinquent lands are not subject to the terms and restrictions  
2 of this section and may be disposed of as required by law.

3  
4 SECTION 8. Arkansas Code Title 22, Chapter 5, Subchapter 3, is amended  
5 to add additional sections to read as follows:

6 22-5-312. Authority of Commissioner of State Lands, state agencies,  
7 and political subdivisions to conduct certain real property transactions.

8 (a)(1) The Commissioner of State Lands may sell at auction or under  
9 subdivision (a)(3) of this section land approved for return to private  
10 ownership under § 22-5-307.

11 (2) The auction may be advertised and conducted at the same time  
12 and in the same manner as tax delinquent lands under § 26-37-201 et seq.

13 (3) If the auction does not result in the sale of the land, the  
14 Commissioner of State Lands may:

15 (A) Negotiate a private sale under the terms and  
16 conditions of § 26-37-202; or

17 (B)(i) List the property for sale with a real estate  
18 broker licensed under the Real Estate License Law, § 17-42-101 et seq.

19 (ii) The Commissioner of State Lands shall by rule  
20 establish criteria to ensure the fair and impartial selection of the real  
21 estate broker.

22 (b)(1) A state agency or political subdivision of the state may sell,  
23 transfer, or exchange real property that it owns if the sale, transfer, or  
24 exchange is for market value.

25 (2) The state agency or political subdivision of the state shall  
26 notify the Commissioner of State Lands in writing and provide a copy of the  
27 recorded deed or other instrument evidencing the sale, transfer, or exchange  
28 within thirty (30) days of the sale, transfer, or exchange.

29  
30 22-5-313. Reports and recommendations of Commissioner of State Lands.

31 (a) Except for real property excluded under § 22-5-210, separately or  
32 with the assistance of the State Land Use Committee, the Commissioner of  
33 State Lands shall report on and make recommendations concerning the real  
34 property inventory of each state agency:

35 (1) At least one (1) time every four (4) years; and

36 (2) During the calendar year before a state agency is abolished

1 or otherwise discontinued.

2 (b) The report and recommendations shall:

3 (1) Determine the purpose for which the real property owned or  
4 controlled by the state agency is currently being used and the plans for  
5 future use by the state agency;

6 (2) Identify real property that is not being used or is being  
7 substantially underused; and

8 (3) Include an analysis of:

9 (A) The highest and best use for the real property; and

10 (B) Alternative uses of the real property including the  
11 potential for:

12 (i) Leasing the real property for commercial or  
13 agricultural uses; or

14 (ii) Any other real estate transaction or use that  
15 may be in the best interest of the state.

16 (c) Upon request, a state agency shall provide the Commissioner of  
17 State Lands within thirty (30) days of the request information to assist the  
18 evaluation of a proposed use of real property, including without limitation:

19 (1) The status of the real property;

20 (2) Alternative uses of the property considered by the state  
21 agency within the previous five (5) years;

22 (3) Proposals received within the previous five (5) years from  
23 private parties concerning the real property; and

24 (4) Any plans to change the use or dispose of the real property.

25 (d) On or before July 1 annually, the Commissioner of State Lands  
26 shall:

27 (1) Prepare a draft evaluation report containing its findings  
28 and recommendations for at least twenty-five percent (25%) of the real  
29 property owned by the state; and

30 (2) Submit the draft evaluation report to each state agency  
31 named in the report and request the state agency's comments concerning the  
32 findings and recommendations made by the Commissioner of State Lands.

33 (e)(1) On or before September 1 annually, the Commissioner of State  
34 Lands shall submit a final evaluation report containing the findings and  
35 recommendations of the Commissioner of State Lands for at least twenty-five  
36 percent (25%) of the real property owned by the state to the Governor, the



1 Legislative Council, the Joint Budget Committee, and each state agency named  
2 in the report.

3 (2) The final evaluation report shall include the comments and  
4 recommendations received from a state agency named in the report concerning  
5 the potential use of real property by the state agency or by another state  
6 agency.

7 (f) The Commissioner of State Lands shall not recommend a real estate  
8 transaction involving real property that is used for military purposes.

9 (g) If real property is identified in the final evaluation report as  
10 not being used or as being substantially underused:

11 (1) A political subdivision of the state shall not annex the  
12 real property without prior written approval of the Commissioner of State  
13 Lands; and

14 (2) A state agency that owns or controls the real property shall  
15 give the Commissioner of State Lands at least thirty-days' notice before  
16 beginning a planned development, acquisition, disposition, lease, sale,  
17 transfer, or exchange of the real property, including the planned  
18 construction of new improvements or a major modification to an existing  
19 improvement to the real property.

20  
21 22-5-314. Disposition and reclassification of state lands.

22 (a) At any time after real property is listed in a final evaluation  
23 report under § 22-5-313, the Commissioner of State Lands may recommend in  
24 writing to the Governor that the real property be:

25 (1) Reclassified under § 22-5-307;

26 (2) Sold, transferred, exchanged, or leased; or

27 (3) Used for a different purpose or by a different state agency  
28 or political subdivision.

29 (b)(1) The Commissioner of State Lands shall notify the state agency  
30 that owns or controls real property of a recommendation concerning the real  
31 property under subsection (a) of this section.

32 (2) The state agency may send the Governor comments or  
33 objections to the recommendation within thirty (30) days.

34 (c) If the Commissioner of State Lands makes a recommendation to the  
35 Governor concerning real property identified as not used or substantially  
36 underused:

1           (1) The Commissioner of State Lands shall notify the Arkansas  
2 Department of Human Services and the Housing Division of the Arkansas  
3 Development Finance Authority to inspect the real property within thirty (30)  
4 days and identify any property suitable for affordable housing if the final  
5 evaluation report indicates that the highest and best use of the real  
6 property is for residential purposes;

7           (2)(A) The real property may be sold or leased or an easement on  
8 the property may be granted to the United States for the use and benefit of  
9 the United States armed forces if after consultation with appropriate  
10 military authorities the Governor or the Governor's designee determines that  
11 the sale, lease, or easement would materially assist the military in  
12 accomplishing its mission.

13           (B) A sale, lease, or easement under this subdivision  
14 (c)(2) shall be at market value.

15           (C) The state shall retain all mineral rights to the real  
16 property but may relinquish the right to use the surface estate to extract  
17 minerals; and

18           (3) The real property shall not without the approval of the  
19 Governor be developed, sold, or otherwise disposed of by the state agency  
20 that owns or controls the real property before the earlier of:

21           (A) The date the Governor rejects a recommendation under  
22 this section; or

23           (B) Two (2) years from the date the recommendation is  
24 approved, unless extended by the Governor.

25           (d) To determine whether to reject a recommendation under this section  
26 the Governor may:

27           (1)(A) Require a state agency to provide a general development  
28 plan for future use of real property and any other information about the real  
29 property.

30           (B) The general development plan shall be submitted no  
31 later than thirty (30) days before a recommendation under this section is  
32 approved if not disapproved by the Governor; and

33           (2) Request that the state agency provide its general  
34 development plan for future use of real property or any other information to  
35 the Commissioner of State Lands for evaluation and may consult with the  
36 Commissioner of State Lands.

1           *(e) The Commissioner of State Lands may take all action necessary to*  
2 *implement a recommendation unless the Governor gives the Commissioner of*  
3 *State Lands written notice disapproving the recommendation within ninety (90)*  
4 *days after receiving the written recommendation of the Commissioner of State*  
5 *Lands.*

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*/s/Ballinger*