

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: H3/18/15

A Bill

SENATE BILL 907

5 By: Senator Hester
6 *By: Representative Dotson*
7

For An Act To Be Entitled

10 AN ACT TO REPEAL OBSOLETE LAWS CONCERNING THE
11 REDEMPTION OF TAX-DELINQUENT LAND; AND FOR OTHER
12 PURPOSES.
13

Subtitle

16 TO REPEAL OBSOLETE LAWS CONCERNING THE
17 REDEMPTION OF TAX-DELINQUENT LAND.
18

19
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code § 26-35-302 is repealed.

23 ~~26-35-302. Life tenants and remaindermen.~~

24 ~~If any person who shall be seized of lands for life shall neglect to~~
25 ~~pay the taxes thereon so long that the lands shall be sold for the payment of~~
26 ~~the taxes and shall not within one (1) year after the sale redeem them~~
27 ~~according to law, the person shall forfeit to the persons next entitled to~~
28 ~~the land in remainder or reversion all the estate which he or she, so~~
29 ~~neglecting as indicated, may have in the lands. The remainderman or~~
30 ~~reversioner may redeem the lands in the same manner that other lands may be~~
31 ~~redeemed after being sold for taxes. The person, so neglecting as indicated,~~
32 ~~shall be liable in an action to the next entitled to the estate for all~~
33 ~~damages that person may have sustained by the neglect.~~
34

35 SECTION 2. Arkansas Code § 26-37-306 is repealed.

36 ~~26-37-306. Procedure for redemption by persons under disability.~~



1 ~~(a) All lands and town or city lots, or parts thereof, which have been~~
2 ~~or may hereafter be forfeited to the state for nonpayment of taxes, which~~
3 ~~belong to minors, persons of unsound mind, and persons in confinement at the~~
4 ~~date of forfeiture, may be redeemed by such persons by application to the~~
5 ~~Commissioner of State Lands within the limitation prescribed by law and upon~~
6 ~~the terms and in the manner provided by law.~~

7 ~~(b)(1) Persons of the class mentioned in subsection (a) of this section~~
8 ~~may, by themselves or by their guardians or next friend, present their~~
9 ~~petition to the Commissioner of State Lands, setting forth the evidence of~~
10 ~~their title at the date of forfeiture and their right to redeem under this~~
11 ~~section and the facts set forth shall be sworn to by the petitioner.~~

12 ~~(2) The oath shall be attested by the clerk of the circuit court~~
13 ~~of the county, or some notary public of the county and state in which the~~
14 ~~petitioner resides or before the Commissioner of State Lands.~~

15 ~~(c) The Commissioner of State Lands may require other evidence than the~~
16 ~~petition to establish the facts therein set forth, and the petitioner may~~
17 ~~take proof by affidavit or otherwise as the Commissioner of State Lands may~~
18 ~~prescribe.~~

19 ~~(d)(1) If the Commissioner of State Lands finds the facts set forth in~~
20 ~~the petition to be true, he or she shall cancel the forfeiture on his or her~~
21 ~~books and issue his or her certificate to the party redeeming the land or~~
22 ~~lot, setting forth the fact that the land or lot has been duly and legally~~
23 ~~redeemed by the payment of all taxes, penalties, and costs due thereon.~~

24 ~~(2) Upon the presentation of the certificate to the county clerk~~
25 ~~of the county in which the lands lie, the county clerk shall mark on his or~~
26 ~~her record of lands forfeited to the state opposite to the tract described in~~
27 ~~the certificate the words "redeemed before the Commissioner of State Lands"~~
28 ~~and the time when so redeemed.~~

29 ~~(e) The assignees of the persons mentioned in subsection (a) of this~~
30 ~~section shall have two (2) years after they shall have acquired title to~~
31 ~~redeem the lands or town or city lots, and under the same provisions and~~
32 ~~restrictions that their assignors had. In no case shall they have a longer~~
33 ~~time in which to redeem than the assignor had at the time of sale.~~

34 ~~(f) The provisions of this section shall not apply to any land or town~~
35 ~~or city lots that have been in anywise disposed of by the state prior to the~~
36 ~~filing in the office of the Commissioner of State Lands a petition for~~

1 ~~redemption.~~

2
3 SECTION 3. Arkansas Code §§ 26-37-308 and 26-37-309 are repealed.

4 ~~26-37-308. Portion of tract of land.~~

5 ~~(a)(1) When a portion of a tract of land sold for general taxes or for~~
6 ~~any improvement district taxes extended by the county clerk on the county tax~~
7 ~~books is claimed by any person who desires to redeem the land, the person may~~
8 ~~apply to the county assessor setting forth in writing his or her claim to the~~
9 ~~land and demanding that the county assessor make a separate assessment upon~~
10 ~~the tract of land described by the claimant, showing what portion of the~~
11 ~~general taxes or of the local improvement taxes for which the land is~~
12 ~~forfeited is properly applicable to the portion of the land sought to be~~
13 ~~redeemed.~~

14 ~~(2)(A)(i) Within two (2) weeks after the application is filed~~
15 ~~with the county assessor, the county assessor shall file with the county~~
16 ~~clerk a certificate in which he or she shall justly apportion the delinquent~~
17 ~~general or local improvement taxes between the portion of the land described~~
18 ~~in the demand of the complainant and the remaining portion of the land.~~

19 ~~(ii) For the county assessor's services the claimant~~
20 ~~shall pay the county assessor the sum of one dollar (\$1.00).~~

21 ~~(B) If the county assessor fails to file his or her~~
22 ~~certificate within the time prescribed he or she shall be subject to a~~
23 ~~penalty of twenty five dollars (\$25.00).~~

24 ~~(b)(1) The certificates shall be recorded by the county clerk in a book~~
25 ~~to be kept by him or her called the tax apportionment book, and the county~~
26 ~~clerk shall write opposite the description of the lands in the assessment~~
27 ~~books or local improvement assessment books the words, "See Tax Apportionment~~
28 ~~Book".~~

29 ~~(2) For each case in which the county clerk fails to do so, the~~
30 ~~county clerk shall be subject to a penalty of twenty five dollars (\$25.00).~~

31 ~~(c)(1)(A) At any time before the expiration of the period for~~
32 ~~redemption of the land and upon paying to the proper officer the sum~~
33 ~~necessary to redeem the portion of land claimed by the person, any person~~
34 ~~interested in the land, either as the purchaser at the sale for general or~~
35 ~~local improvement taxes or claiming the remaining portion of the land, or any~~
36 ~~part of the land, may file suit in the circuit court to review the justness~~

1 ~~of the apportionment made by the county assessor.~~

2 ~~(B) If the plaintiff prevails in his or her suit, the~~
3 ~~circuit court shall make a decree charging the land of the defendant with the~~
4 ~~excess of taxes paid by the plaintiff, which charge shall be the first lien~~
5 ~~on the land.~~

6 ~~(2)(A) If the first redemption is made less than three (3) months~~
7 ~~before the expiration of the period of redemption, a remaining party~~
8 ~~interested in the land shall have a period of three (3) months from the time~~
9 ~~of the redemption in which to bring the suit provided for in this section.~~

10 ~~(B) However, the three month period shall not extend their~~
11 ~~time for redeeming.~~

12 ~~(d)(1) The assessing officers of any improvement district may make a~~
13 ~~reassessment of the benefits annually.~~

14 ~~(2) In any such reassessment the assessing officers may correct~~
15 ~~defective descriptions.~~

16 ~~(3)(A) When a tract of land has been assessed as a whole, the~~
17 ~~tract may be divided according to its ownership at the time of the~~
18 ~~reassessment.~~

19 ~~(B) This reassessment shall be made, advertised, and~~
20 ~~equalized in the same manner, and only subject to attack within the same~~
21 ~~period of time, as the original assessment of benefits.~~

22
23 ~~26-37-309. Uncertified sales to state.~~

24 ~~(a) Any land sold to the state for the nonpayment of taxes since the~~
25 ~~year 1908 or thereafter, which sale has never been certified to the~~
26 ~~Commissioner of State Lands, may be redeemed by the person, firm, or~~
27 ~~corporation holding the lands under color of title by filing with the~~
28 ~~Commissioner of State Lands a certificate from the county clerk of the county~~
29 ~~in which the lands are situated, showing the sale of the land, the amount of~~
30 ~~taxes, penalty, and cost due thereon, if any, and the payment thereof and~~
31 ~~making a sworn statement in writing that he or she is the holder of the lands~~
32 ~~as aforesaid and entitled to redeem them.~~

33 ~~(b) Upon compliance with subsection (a) of this section, the~~
34 ~~Commissioner of State Lands shall issue to the person, firm, or corporation a~~
35 ~~quitclaim deed to the land, conveying to the person, firm, or corporation, as~~
36 ~~the case may be, all claim, right, and title the state acquired by the sale.~~

1 ~~The Commissioner of State Lands shall make a record of the sale and of the~~
2 ~~issuance of the deed in a book kept by him or her for that purpose, showing~~
3 ~~the sale to the state, the date of the deed, to whom issued, and the~~
4 ~~description of the lands. The Commissioner of State Lands shall file and~~
5 ~~preserve all of the original papers in connection with the redemption in his~~
6 ~~or her office. The papers and record shall be open at all times to public~~
7 ~~inspection.~~

8
9 SECTION 4. Arkansas Code §§ 26-37-311 and 26-37-312 are repealed.

10 ~~26-37-311. Proceedings to redeem prior to sale by state.~~

11 ~~(a) At any time before the lands referred to in this section have been~~
12 ~~sold by the state, the owners thereof may present their petition to the~~
13 ~~Commissioner of State Lands, setting forth the evidence of their title, or of~~
14 ~~those under whom they claim, to the lands, at the time of the sale of the~~
15 ~~lands to the state as stated in this section. The petition shall set forth~~
16 ~~the evidence of the taxes having been paid on the lands before such sale to~~
17 ~~the state, for the years for the alleged nonpayment of which taxes the lands~~
18 ~~were sold to the state under any proceedings or decrees rendered under laws~~
19 ~~to enforce the payment of overdue taxes, and the facts set forth shall be~~
20 ~~sworn to by the petitioner and such oath shall be attested by the clerk of~~
21 ~~the circuit court of the county, or some notary public of the county and~~
22 ~~state in which such petitioner resides, or before the Commissioner of State~~
23 ~~Lands.~~

24 ~~(b) The Commissioner of State Lands may require other evidence than the~~
25 ~~petition to establish the facts therein set forth, and the petitioner may~~
26 ~~take proof by affidavit or otherwise as the Commissioner of State Lands may~~
27 ~~prescribe.~~

28 ~~(c) If the Commissioner of State Lands finds the facts set forth in the~~
29 ~~petition to be true and that the taxes on the lands had been paid by the~~
30 ~~present owners of the lands, or by those under whom they claim the lands, for~~
31 ~~the years they were sold to the state, and before they were sold to the~~
32 ~~state, he or she shall, by deed of release and quitclaim under his or her~~
33 ~~hand and official seal, convey to the owner of the lands all of the rights,~~
34 ~~title, and interest of the state in and to the lands acquired under any sale~~
35 ~~or other proceedings under provisions of an act to enforce the payment of~~
36 ~~overdue taxes, Acts 1881, No. 39, approved March 12, 1881 [repealed]. A copy~~

1 ~~of the deed shall also be sent by the Commissioner of State Lands to the~~
2 ~~county clerk of the county.~~

3 ~~(d) After the reception of the deed from the Commissioner of State~~
4 ~~Lands to the county clerk, the county clerk shall extend on the tax books~~
5 ~~against the lands the taxes for the years that the taxes have not been paid~~
6 ~~since the erroneous sale of the lands to the state under the overdue tax law.~~
7 ~~The taxes that have not been paid on the lands since the sale to the state~~
8 ~~shall be charged and collected as in other cases of lands of the state where~~
9 ~~the Commissioner of State Lands has officially advised the county clerk they~~
10 ~~have become subject to taxation.~~

11
12 ~~26-37-312. Reassessment of unimproved land in municipality.~~

13 ~~(a) When an acreage tract of unimproved land, that is, land with no~~
14 ~~residence or other building on it, located in any incorporated municipality~~
15 ~~is in default to this state for nonpayment of taxes and when the owner of the~~
16 ~~acreage tract of unimproved land applies to the county assessor of the county~~
17 ~~where the acreage tract of unimproved land is located for reassessment, it~~
18 ~~shall be the duty of the county assessor to determine what would have been a~~
19 ~~fair assessment for the year for which the acreage tract of unimproved land~~
20 ~~forfeited.~~

21 ~~(b)(1) In determining the amount at which the acreage tract of~~
22 ~~unimproved land should have been assessed, the county assessor should take~~
23 ~~into consideration how the acreage tract of unimproved land lies.~~

24 ~~(2) If the value of the acreage tract of unimproved land is being~~
25 ~~considered as to its probability or possibility of being platted and sold off~~
26 ~~in lots or blocks, then due allowance should be made for the land that will~~
27 ~~be required for streets and alleys.~~

28 ~~(3) In arriving at the valuation for reassessment purposes on the~~
29 ~~acreage tract of unimproved land, the county assessor shall take into~~
30 ~~consideration the assessed value of platted vacant lots in adjoining or~~
31 ~~nearby platted subdivisions.~~

32 ~~(4) If the property that is platted into lots is served with~~
33 ~~water, lights, gas, and telephone lines, when there is no improvement~~
34 ~~district tax on the platted lots for those utility services, then that also~~
35 ~~should be taken into consideration.~~

36 ~~(5) When compared with platted lots, if the streets serving the~~

1 ~~lots are paved and the paving tax is paid out, or nearly paid out, that,~~
2 ~~likewise, should be taken into consideration in determining the amount at~~
3 ~~which the acreage tract of unimproved land should have been assessed.~~

4 ~~(c)(1)(A) If the county assessor finds that the acreage tract of~~
5 ~~unimproved land was valued on county assessor's records too high at the time~~
6 ~~it forfeited to the state, the county assessor shall make a written report to~~
7 ~~that effect to the Commissioner of State Lands and state what a fair and~~
8 ~~equitable assessed value should have been.~~

9 ~~(B) It shall then be the duty of the Commissioner of State~~
10 ~~Lands to make reduction in the amount of taxes in accordance with the report~~
11 ~~of the county assessor.~~

12 ~~(2) Any interested landowner may appeal to the circuit court for~~
13 ~~review of the findings of the county assessor.~~

14 ~~(d)(1) If reduction in the amount of taxes against the acreage tract of~~
15 ~~unimproved land is made by the Commissioner of State Lands on the report of~~
16 ~~the county assessor or upon finding of the circuit court upon appeal from the~~
17 ~~county assessor's findings, then the Commissioner of State Lands shall allow~~
18 ~~the landowner to redeem the acreage tract of unimproved land or sell the~~
19 ~~acreage tract of unimproved land as provided by law, based on the corrected~~
20 ~~amount of taxes due.~~

21 ~~(2) When the acreage tract of unimproved land, at the time it~~
22 ~~forfeited to the state for taxes, was assessed as one (1) tract but when it~~
23 ~~is now owned by two (2) or more owners, on petition to the Commissioner of~~
24 ~~State Lands of one (1) or more of the landowners, as shown by certificate of~~
25 ~~abstractor, the Commissioner of State Lands shall prorate the proportionate~~
26 ~~part of the reassessment against the respective parts of the acreage tract of~~
27 ~~unimproved land and the Commissioner of State Lands shall determine the~~
28 ~~amount of delinquent taxes to be charged against each part of the acreage~~
29 ~~tract of unimproved land and mark his or her records accordingly.~~

30 ~~(3) Each part of the acreage tract of unimproved land may then be~~
31 ~~redeemed by the owner, the amount necessary to redeem being based on the~~
32 ~~corrected assessment and apportionment.~~

33 ~~(4) If any portion of the acreage tract of unimproved land~~
34 ~~remains unredeemed for a period of ninety (90) days after the apportionment~~
35 ~~is made, the Commissioner of State Lands may then sell any portion of the~~
36 ~~acreage tract of unimproved land as remains unredeemed, or may sell the~~

1 ~~portion prior to the expiration of the ninety day period with the consent of~~
2 ~~the owner.~~

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/s/Hester