

1 State of Arkansas
2 90th General Assembly
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4

As Engrossed: H3/18/15
A Bill

SENATE BILL 907

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

8
9 **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

14
15 **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 Arkansas Code § 26-35-302 is repealed.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 Arkansas Code § 26-37-306 is repealed.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

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