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A Bill

SENATE BILL 551

5
6 By: Senator Salmon

7 Filed with: Interim Senate Committee on Revenue and Taxation
8 pursuant to A.C.A. §10-3-217.

9 **For An Act To Be Entitled**

10 AN ACT TO OBTAIN ACCURATE LEGAL
11 DESCRIPTIONS OF TAX-DELINQUENT AND OTHER
12 LANDS; TO REGULATE THE SALE AND
13 REDEMPTION OF TAX-DELINQUENT LANDS; AND
14 FOR OTHER PURPOSES.

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17 **Subtitle**

18 TO OBTAIN ACCURATE LEGAL DESCRIPTIONS OF
19 TAX-DELINQUENT AND OTHER LANDS; AND TO
20 REGULATE THE SALE AND REDEMPTION OF TAX-
21 DELINQUENT LANDS.

22
23
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25
26 SECTION 1. Arkansas Code § 26-26-717 is amended to read as follows:
27 26-26-717. Accurate description of all tracts required.

28 (a)(1)(A) ~~It shall be the duty of each A county assessor to make out,~~
29 shall assemble from ~~such~~ all available sources of information ~~as shall be in~~
30 ~~his power,~~ a correct ~~and pertinent~~ description of each tract or lot of real
31 property in ~~his~~ the county, ~~so that it can be identified and distinguished~~
32 sufficient to identify and distinguish the tract or lot from any other
33 tracts, lots, or parts of tracts or lots.

34 (B) The county assessor shall place a value on each
35 subdivision of a block, and the improvements ~~thereon~~ on each subdivision of a

1 block, in cities, and towns, or and additions thereto to cities and towns,
 2 notwithstanding the fact that one (1) individual owns the whole block.

3 (2)(A) When the county assessor ~~shall deem~~ considers it
 4 necessary to obtain an accurate description of ~~any separate~~ a tract or lot in
 5 ~~his~~ the county, ~~he may require~~ the county assessor shall:

6 (i) Make written demand upon the owner or ~~occupier~~
 7 occupant of the tract or lot to furnish ~~it~~ the county assessor with any title
 8 papers or surveys that ~~he~~ the owner or occupant may have has in his or her
 9 possession; and

10 (ii) Include in the demand notice that the failure
 11 of the owner or occupant to comply with the demand may result in the county
 12 assessor's employment of the county surveyor or a licensed surveyor to
 13 prepare a description of the tract or lot at the expense of the owner or
 14 occupant, and the expense shall be added to the tax assessed upon the tract
 15 or lot.

16 (B)(i) If the owner or ~~occupier, upon demand made for it,~~
 17 ~~shall neglect or refuse to furnish a satisfactory description of the parcel~~
 18 ~~of real property to the assessor~~ occupant fails or refuses to comply with
 19 subdivision (a)(2) of this section, ~~he~~ the county assessor may employ the
 20 county surveyor or a licensed surveyor to ~~make out~~ prepare a description of
 21 the boundaries, and location ~~thereof,~~ and a statement of the quantity of land
 22 ~~therein~~ within the tract or lot.

23 (ii) The expense of the survey under subdivision
 24 (a)(2)(B)(i) of this section shall be returned by the county assessor to the
 25 clerk of the county court, who shall add the expense of the survey to the tax
 26 assessed upon the ~~real property~~ tract or lot, and ~~it~~ the expense of the
 27 survey shall be collected by the county collector of the county with the tax.
 28 When collected, ~~it~~ the expense of the survey shall be paid on demand to the
 29 person to whom it is due.

30 (b)(1) ~~The assessor shall, in all cases, from actual view or from the~~
 31 ~~best sources of information within his reach, determine, as near as~~
 32 ~~practicable,~~ From an actual view of the tract or lot or from the best sources
 33 available to the county assessor, the county assessor shall determine as near
 34 as practicable the true value of each separate tract ~~and~~ or lot of real
 35 property in ~~his~~ the county assessor's county, according to the rules
 36 prescribed by this chapter for valuing property.

1 (2) ~~The assessor shall note in his plat book, separately, the~~
 2 ~~value of all houses, mills, and other buildings which shall be carried out as~~
 3 ~~a part of the value of the tracts. The county assessor shall note separately~~
 4 in his or her plat book the value of all houses, mills, and other buildings
 5 and shall include the value of a house, mill, or other building as a part of
 6 the value of the tract or lot upon which the house, mill, or other building
 7 sits.

8
 9 SECTION 2. Arkansas Code § 26-26-720 is amended to read as follows:
 10 26-26-720. Correcting descriptions already on books.

11 (a)(1) The Commissioner of State Lands with the approval of the
 12 ~~Attorney General is authorized to have corrected any part description of~~
 13 ~~lands on the books of the Commissioner of State Lands in the manner provided.~~
 14 ~~This authority shall be exercised upon the application of any applicant to~~
 15 ~~purchase or upon application by~~ may correct a partial or incomplete
 16 description of tax-delinquent land on the books of the Commissioner of State
 17 of Lands.

18 (2) Upon application by an applicant to purchase tax-delinquent
 19 land, the Department of Parks and Tourism, the Arkansas Forestry Commission,
 20 ~~or~~ the Arkansas State Game & and Fish Commission, or the Attorney General,
 21 the Commissioner of State Lands shall correct a partial or incomplete
 22 description of tax-delinquent land on the books of the Commissioner of State
 23 Lands.

24 (b) The Commissioner of State Lands shall notify the owner of the tax-
 25 delinquent land and all interested parties as defined in § 26-37-301 of the
 26 correction of a description of tax-delinquent land before the sale of the
 27 tax-delinquent land.

28
 29 SECTION 3. Arkansas Code § 26-37-203 is amended to read as follows:
 30 26-37-203. Conveyance to purchaser – Contest.

31 (a)(1) If ~~the~~ tax-delinquent land is not redeemed within the thirty-
 32 day period provided by § 26-37-202, the Commissioner of State Lands shall
 33 ~~issue~~ convey the tax-delinquent land by issuing a limited warranty deed to
 34 the tax-delinquent land, subject to the right of cancellation under
 35 subdivision (e)(1) of this section.

1 (2)(A) To obtain the limited warranty deed from the Commissioner
2 of State Lands, the successful bidder or the successful purchaser by
3 negotiated sale under § 26-37-202 of tax-delinquent land shall provide the
4 Commissioner of State Lands a sworn statement evidencing proof of service in
5 the manner provided by Rule 4 of the Arkansas Rules of Civil Procedure
6 reflecting that notice of the purchase by the successful bidder or successful
7 purchaser has been given by:

8 (i) Actual notice to each person or entity in
9 possession of any part of the tax-delinquent land; and

10 (ii) Any form of service to each owner or interested
11 party as defined by § 26-37-301.

12 (B) Proof of compliance with subdivision (a)(2) of this
13 section shall be by:

14 (i) An affidavit of service evidencing compliance
15 with Rule 4 of the Arkansas Rules of Civil Procedure for each party
16 identified in subdivision (a)(2)(A) of this section; and

17 (ii) For each person or entity provided actual
18 notice under subdivision (a)(2)(A)(i) of this section, an additional sworn
19 statement containing:

20 (a) The name of the person or entity;

21 (b) The resident or business address of the
22 person or entity;

23 (c) The address where notice was given;

24 (d) To whom the notice was given; and

25 (e) A description of the possessory interest
26 of the person or entity in the tax-delinquent land.

27 (b)(1) Except as provided in ~~subdivisions~~ subdivision (b)(2) and (3)
28 of this section, all ~~actions~~ an action to contest the validity of the a
29 conveyance under this section or a negotiated sale under § 26-37-202 shall be
30 brought is barred if not commenced within ~~one (1) year~~ fifteen (15) years
31 after the date of the conveyance or negotiated sale thereafter be barred.

32 (2) A cause of action by a person suffering a disability due to
33 mental incapacity, a minor, or a person serving in the United States armed
34 forces ~~during time of war~~ in active duty during the ~~two-year~~ fifteen-year
35 period under subdivision (b)(1) of this section shall be brought is barred if
36 not commenced within two (2) years after the disability is removed, the

1 minor reaches majority, or the person is released from active duty with the
2 United States armed forces.

3 ~~(3) An action to challenge the conveyance to a purchaser of land~~
4 ~~that was sold at a negotiated sale under § 26-37-101 shall be brought within~~
5 ~~ninety (90) days after the date of the conveyance or thereafter be barred.~~

6 (c)(1) No Except as provided in subdivision (c)(2) of this section, a
7 deed issued after January 1, 1987, by the Commissioner of State Lands shall
8 be is not void or voidable on the ground that the county did not strictly
9 comply with the laws governing tax-delinquent land if prior to the issuance
10 of before issuing the deed the Commissioner of State Lands complied with the
11 laws governing the disposition of tax-delinquent land.

12 (2) A court may set aside a deed issued by the Commissioner of
13 State Lands if the county assessor failed to strictly comply with §§ 26-26-
14 717 and 26-26-719.

15 ~~(d) Nothing in this section shall~~ This section does not prevent any a
16 taxpayer from attacking contesting the validity of a deed issued by the
17 Commissioner of State Lands on the ground that taxes have actually been paid.

18 (e)(1) A taxpayer or interested party as defined in § 26-37-301 may
19 obtain the cancellation of a limited warranty deed issued under this section
20 by filing suit within the time specified in subsection (b) of this section
21 and depositing into the registry of the court cash or a cashier's check in
22 the sum determined by the court to equal:

23 (A) The full amount of the consideration paid for the tax-
24 delinquent land with compound interest at the rate of six percent (6%) per
25 annum; and

26 (B) A cancellation fee of twenty percent (20%) of the
27 principal amount of the consideration paid by the purchaser of the tax-
28 delinquent land.

29 (2) In an action under this subsection the:

30 (A) Actions of the Commissioner of State Lands are not
31 relevant to the determination of the action; and

32 (B) Commissioner of State Lands:

33 (i) Is immune from liability or suit for his or her
34 actions concerning the tax-delinquent lands; and

35 (ii) May not be made a party without his or her
36 consent.

1 (3) The final order of the court cancelling the limited warranty
2 deed shall direct the court clerk to pay all money deposited into the
3 registry of the court under this subsection by the taxpayer or interested
4 party as defined in § 26-37-301 to the purchaser of the tax-delinquent land.

5 (f)(1) Upon delivering a certified copy of the final order cancelling
6 the limited warranty deed and paying a reasonable administrative fee not to
7 exceed one hundred dollars (\$100) to the Commissioner of State Lands, the
8 Commissioner of State Lands shall execute and deliver a redemption deed for
9 the tax-delinquent land to the taxpayer or interested party as defined in §
10 26-37-301.

11 (2) The Commissioner of State Lands shall establish the amount
12 of the administrative fee under subdivision (f)(1) of this section.

13 (g) A right to redeem or to obtain the cancellation of a limited
14 warranty deed granted by this section may be extinguished by a decree
15 quieting title to the lands under § 26-38-201 et seq. or otherwise only after
16 the time to exercise the right to redeem or to obtain the cancellation of a
17 limited warranty deed granted by this section has expired.

18
19 SECTION 4. Arkansas Code § 18-12-609 is amended to read as follows:
20 18-12-609. Marketability of real property sold at tax sales.

21 (a) The title to any real property located within the State of
22 Arkansas based upon a deed resulting from a delinquent tax sale is marketable
23 if:

24 (1) The tax deed has been of record for more than fifteen (15)
25 years;

26 (2) Any taxes due have been paid by the tax deed grantee or the
27 heirs or successors of the tax deed grantee for more than fifteen (15) years;

28 (3) ~~No~~ A claim of adverse possession of the real property has
29 not been asserted or filed of record since the recording of the tax deed; and

30 (4) The taxes for which the tax deed was issued had not been
31 paid before the tax deed was executed and delivered to the tax deed grantee.

32 (b) This section ~~shall not be~~ is not subject to the additional time to
33 challenge a tax deed given to minors, persons suffering a mental incapacity,
34 or persons serving in the United States armed forces ~~during a time of war in~~
35 active duty under § 26-37-203(b).

1 (c) ~~Nothing in this section shall~~ This section does not preclude a
 2 judicial action to quiet the title to ~~any~~ real property located within this
 3 state subject to the rights of an owner or interested party under § 26-37-203
 4 after a forfeiture and conveyance of tax-delinquent real property prior to
 5 before the time that the title to the real property is considered marketable
 6 under subsection (a) of this section.

7 (d) This section shall not apply to a tax sale of a severed mineral
 8 interest.

9
 10 SECTION 5. Arkansas Code § 26-38-206 is amended to read as follows:
 11 26-38-206. Effect of the decree of confirmation.

12 ~~(a)~~ Except as provided in § 26-37-203:

13 (1) The decree of the ~~chancery~~ circuit court confirming the
 14 forfeiture and conveyance to the ~~state~~ plaintiff under § 26-38-202 of real
 15 ~~property shall operate, except only as expressly provided in this section,;~~

16 (A) ~~as~~ As a complete bar, ~~both~~ at law and in equity,
 17 ~~against any and~~ of a claim or defense of all persons, firms, corporations,
 18 quasi-corporations, associations, trustees, and holders of beneficial
 19 interests ~~who may hereafter assert or defend claims~~ to the title of the real
 20 property; and

21 (B) ~~as a vesting of~~ To vest the complete and ~~indefensible~~
 22 indefeasible title to the real property in the ~~state~~ plaintiff under § 26-38-
 23 202 and its the plaintiff's grantees in fee simple, free and clear of all
 24 ~~such~~ claims.

25 ~~(b)~~ ~~It shall so operate,~~ regardless of whether ~~or not~~ such the
 26 forfeiture and conveyance ~~may have been~~ is void or voidable because of
 27 ~~defects or irregularities occurring~~ a defect or irregularity in the
 28 proceedings ~~therefor,~~ to forfeit and convey the real property; and

29 ~~(c)(1)~~ ~~All parties shall have the right to appeal any decree of~~
 30 ~~confirmation pursuant to the Arkansas Rules of Civil Procedure.~~

31 (2)(A) ~~Any~~ The claim of a person, firm, corporation, quasi-
 32 corporation, association, trustee, or holder of a beneficial interest ~~whose~~
 33 with a properly recorded interest in the real property ~~is properly recorded~~
 34 ~~but who~~ that is not properly served notice of the confirmation proceedings
 35 ~~shall have~~ under this subchapter is barred if not commenced within one (1)

1 year from ~~and after rendition to attack~~ the date the decree insofar as it
2 ~~relates to his real property~~ is entered.

3 ~~(B) All attacks upon the decree made after the one (1)~~
4 ~~year period shall be taken to be collateral attacks and shall be wholly~~
5 ~~ineffectual.~~

6
7 SECTION 6. Arkansas Code § 26-38-209 is amended to read as follows:
8 26-38-209. Application.

9 ~~The provisions of this subchapter are applicable to~~ This subchapter:

10 (1) Applies to all forfeitures and conveyances to the state or
11 from the state whether ~~such~~ or not the forfeiture or conveyance occurred
12 before or after March 23, 1993; and

13 (2) Is subject to the right to redeem or to obtain the
14 cancellation of a limited warranty deed granted by § 26-37-203.

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16 */s/Salmon*
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33 Referred by the Arkansas Senate

34 Prepared by: DLP/VJF
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