

State of Arkansas

76th General Assembly

Regular Session, 1987 AS ENGROSSED 3/4/87

HOUSE BILL 1728

By: Representative John E. Miller

"AN ACT TO AMEND AND REPEAL VARIOUS OBSOLETE LAWS PERTAINING  
TO THE FORFEITURE AND SALE OF TAX DELINQUENT LAND; AND FOR  
OTHER PURPOSES."

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

SECTION 1. Section 128 of Act 114 of 1883, as amended, the same being Arkansas Statute 84-1102, is hereby amended to read as follows:

"Section 128. The collectors of the several counties of this State shall cause a list of the delinquent lands in their respective counties, as corrected by them, to be entered in a permanent record appropriately labeled, which shall be a permanent public record, and open to the inspection of the public at all times.

The County Clerk shall certify that the total amount of delinquent lands in this permanent record is equal to the credit allowed the Collector for delinquent lands on the current tax settlement.

The list of delinquent lands recorded as provided herein shall have attached thereto, by the County Collector, a certificate stating in what newspaper said notice of delinquent land was published and the dates of publication, and such record, so certified, shall be evidence of the facts in said list and certificate contained.

SECTION 2. Section 1 of Act 80 of 1955, as amended, the same being the first paragraph of Arkansas Statute 84-1103, is hereby amended to read as follows:

"Section 1. The collectors of the several counties of this State shall cause the list of the delinquent lands in their respective counties to be prepared and a copy of such list to be delivered to a legal newspaper of the county by no later than forty-five (45) days after October 11th, the date of

delinquency. Within seven (7) days thereafter, said newspaper shall publish the first insertion of said list of delinquent lands, which list shall be published two (2) times in successive weeks. If there be no newspaper in the county or district, the publication shall be in the nearest newspaper having a general circulation in the county or districts for which the list is being published. Provided that within any section, a section quarter section, eighty (80) acres or less, contiguous acreage owned by one (1) person shall be listed and published under one (1) item as one (1) tract."

SECTION 3. Section 3 of Act 80 of 1955, as amended, the same being Arkansas Statute 84-1104, is hereby amended to read as follows:

"Section 3. The legal fee for each required publication of delinquent real property tax lists shall be seventy-five cents (75\_) per tract, per insertion. Such fee shall be added as costs of forfeiture and shall be paid by the collector from any moneys in his hands derived from the payment of real property taxes. The receipts for such payment, verified by the certificate of the county clerk as to its correctness, shall entitle the collector to a credit for the amount so paid."

SECTION 4. Section 124 of Chapter 128 of the Revised Statutes of 1837, as amended, the same being Arkansas Statute 84-1113, is hereby amended to read as follows:

"Section 124. The Commissioner of State Lands shall keep a permanent record, of all lands forfeited to the State for taxes, and note in said record, in whose name the same was listed, for what year or years it was taxed, the amount of tax due thereon, and when forfeited, which said record shall be open to the inspection of anyone."

SECTION 5. Sections 1 through 4 of Act 626 of 1983, the same being Arkansas Statutes 84-1126 through 84-1129, are hereby amended to read as follows:

"Section 1. Hereafter all lands upon which the taxes have not been paid for two (2) years following the date the taxes were due, October 10, shall be certified to the Commissioner of State Lands for collection and/or sale. The County Collector in each county shall, not less than thirty (30) days nor more than forty (40) days prior to the certification of said land cause to be

published in a newspaper of general circulation in the county, a list of all such real property not previously redeemed, the names of the owners of record, the amount of the taxes, penalties, interest and cost necessary to be paid to redeem the property, the date upon which such period of redemption expires, and notice that unless such property is redeemed prior to the expiration of the period of redemption, the lands will be forfeited to the State. Fees for the above publication shall be the same as set forth in Section 3 of Act 80 of 1955, as now or hereafter amended (Ark. Stat. Ann. §84-1104). Hereafter no tax delinquent lands shall be sold at the county level. The County Collector shall hold all tax delinquent lands in the county for two (2) years after the date of delinquency, and if not redeemed by certification date which shall be no later than July 1 of the following year, said Collector shall certify the same to the State, after notice as provided above indicating all taxes, penalties, interest and costs due and the name and last known address of the owner of record of the tax delinquent land. Prior to certification to the Commissioner of State Lands, the county assessor shall: (a) Verify the assessment to establish value on all parcels to be certified; (b) verify the name and last known address of the owner of record of the tax delinquent land; and (c) determine whether the tax delinquent land exists and if it is found to be nonexistent the county assessor shall remove the delinquent entry from the assessment rolls.

No tax delinquent lands shall be certified to the Commissioner of State Lands without the assessor's verification. Upon receiving tax delinquent lands, the Commissioner of State Lands shall notify the owner at the owner's last known address by certified mail of the owner's right to redeem by paying all taxes, penalties, interest and costs, including the cost of the notice. In order to redeem, whether with the county collector or the State Land Commissioner, and in order to purchase at the State Land Commissioner's sale, the redeemer/purchaser of tax delinquent land shall pay all delinquent taxes plus, (1) ten percent simple interest for each year of delinquency; (2) a ten percent (10%) penalty for each year of the delinquency, and (3) the costs incurred by the county and the State Land Commissioner. Such penalties and interest shall accrue beginning on October 11 in the year of delinquency. If the owner redeems the tax delinquent land, the Commissioner of State Lands shall issue a redemption deed and record the same in the county wherein the land is located. The fee for the redemption deed and the fee for recording

the deed shall be borne by the owner. The notice to the owner shall also indicate that the tax delinquent land will be sold at auction if not redeemed prior to the date of sale. The notice shall also indicate the sale date, and such date shall be no earlier than two (2) years after the land is certified to the Commissioner. All costs of notice shall be added to the costs to be collected from the purchaser or redeemer. The Commissioner shall charge a twenty-five dollar (\$25.00) collection fee against each parcel of tax delinquent land which has been certified to his office.

Section 2. On December 31, 1985, the delinquent real property tax records of the several county clerks shall be transferred to the collectors unless the clerks and collectors, by agreement, transfer such duties and responsibilities prior to December 31, 1985. It shall be the responsibility of the county clerks to maintain said tax records until their duties and responsibilities are transferred to their respective collectors.

Section 3. The Commissioner of State Lands shall publish a notice of sale of land upon which the ad valorem property taxes have not been paid in a newspaper having general circulation in the county wherein the land is located. The publication fee for such notice shall be the same as set forth in Section 3 of Act 80 of 1955, as now or hereafter amended (Ark. Stat. Ann. §84-1104). The notice shall contain the assessed value of the land, the amount of taxes, interest, penalties and other costs due on the land, the legal description of the land, a list of all recorded liens against the land that are known to the Commissioner of State Lands, and indicate that the land will be sold to the highest bidder provided that such bid is equal to at least the assessed value of the land as certified to the Commissioner of State Lands. The highest bidder shall pay all taxes, interest, penalties and other costs. Thereafter, all interested parties known to the Commissioner and not previously notified shall receive notice by mail of the sale from the Commissioner. Bidders may bid at the sale or mail their bids to the office of the Commissioner of State Lands. Bids shall be delivered at the appropriate place before the deadline established in the 'notice of sale'. If no one bids at least the assessed value, the Commissioner may negotiate a sale. All negotiated sales shall have approval of the Attorney General of the State of Arkansas. The Commissioner shall conduct tax delinquent sales in the county wherein the land is located unless the Commissioner determines that there are not enough parcels of land to justify a sale in one county only, and in such

case, the Commissioner may hold a tax delinquent land sale in one location and thereat sell land located in more than one county, provided that the counties wherein the lands are located are adjoining counties. The sales shall be conducted on the dates specified in the notices required by this Act, and unless the owners of record tender all taxes, penalties, interest and costs due within thirty (30) days after the date of sale, a limited warranty deed will be issued by the Commissioner to the purchaser.

Section 4. If the tax delinquent land is not redeemed within said thirty (30) day period, the successful bidder shall pay all taxes, penalties, interest and costs associated with the sale and the Commissioner of State Lands shall issue a limited warranty deed to such land. All actions to contest the validity of such conveyance shall be brought within two (2) years after the date of the conveyance or thereafter be barred, except as to causes of actions by persons suffering a mental incapacity, minority or serving in the United States Armed Forces during time of war during the two (2) year period. Such persons shall not be allowed to contest the validity of the conveyance after the expiration of two years after the disability is removed or the person reaches majority or the person is released from active duty with the Armed Forces."

SECTION 6. Section 7 of Act 626 of 1983, as amended, the same being Arkansas Statute 84-1132, is hereby amended to read as follows:

"(a) Except as provided in subsection (b) of this Section, all tax delinquent land now held by the Commissioner of State Lands shall be disposed of according to the provisions of Act 626 of 1983, as amended. For the purposes of Act 626 of 1983, as amended, the word 'taxes' shall mean ad valorem taxes on real estate and the annual installments of the assessments of benefits levied by municipal improvement districts formed in second class cities under Act 84 of 1881, as amended (Ark. Stat. 20-101 et seq.) or Act 64 of 1929, as amended (Ark. Stat. 20-104 et seq.), for the sole purpose of acquiring, constructing, operating or maintaining a recreational facility. The term 'tax delinquent land' when used in Act 626 of 1983, as amended, shall mean all land upon which the ad valorem property taxes have not been paid and such term shall also include land subject to a lien for nonpayment of annual installments of the assessments of benefits levied by municipal recreation improvement districts created pursuant to Act 84 of 1881, as amended (Ark.

Stat. 20-101 et seq.) or Act 64 of 1929, as amended (Ark. Stat. 20-104 et seq.).

(b) All tax delinquent land which has been or will be certified to the State Land Commissioner for tax years prior to 1978 but which has been neither sold nor redeemed, shall not be subject to the provisions of Act 626 of 1983, as amended, or any other Act relating to the sale of land by the Commissioner, but may be sold by the Commissioner at public sales or by private negotiation for whatever price the Commissioner determines to be in the best interest of the State and its local taxing units.

(c) The Commissioner of State Lands shall have the authority to promulgate such rules and regulations as may be necessary to effectively carry out the provisions of Act 626 of 1983, as amended. Upon adoption, such rules and regulations shall have the full force and effect of law."

SECTION 7. (a) All funds distributed to each county by the Commissioner of State Lands from the redemption or sale of tax delinquent lands, including any interest and costs, are to be distributed to the applicable taxing units where such delinquent land is located within the county in the manner and proportion that such taxes would have been distributed if they had been collected in the year due.

(b) All funds received by a county from the redemption of tax delinquent land at the county level, including any penalty, interest and costs, are to be distributed to the applicable taxing units where such delinquent land is located within the county in the manner and proportion that such taxes would have been distributed if they had been collected in the year due.

SECTION 8. The following laws are hereby repealed:

(a) Act 322 of 1977, the same being Arkansas Statutes 84-1102.1 through 1102.3;

(b) The first sentence of Section 129 of Act 114 of 1883, as amended, the same being Arkansas Statute 84-1105;

(c) Act 313 of 1905, the same being Arkansas Statutes 84-1106 and 1107;

(d) The second and third sentences of Section 129 of Act 114 of 1883, the same being Arkansas Statute 84-1108;

(e) Sections 130 and 131 of Act 114 of 1883, the same being Arkansas

Statutes 84-1109 and 1110;

(f) Section 133 of Act 114 of 1883, as amended, the same being Arkansas Statute 84-1112;

(g) Sections 134 and 135 of Act 114 of 1883, the same being Arkansas Statutes 84-1114 and 1115;

(h) Section 152 of Act 114 of 1883, the same being Arkansas Statute 84-1117;

(i) Section 10 of Act 170 of 1935, the same being Arkansas Statute 84-1125.

/s/ John E. Miller

