

As Engrossed: 3/21/91

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative Cunningham**

A Bill

HOUSE BILL 1936

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE § 14-94-122 FOR THE PURPOSE
9 OF SHORTENING THE TIME PERIOD TO COMPLETE THE STATUTORY
10 FORECLOSURE PROCEDURE AGAINST TAX DELINQUENT LANDS IN A
11 MUNICIPAL PROPERTY OWNERS' IMPROVEMENT DISTRICT."

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

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15 SECTION 1. Arkansas Code § 14-94-122 is hereby amended to read as
16 follows:

17 "14-94-122.

18 (A) Payment of taxes - Enforcement.

19 (a) All taxes levied under the terms of this chapter shall be payable
20 in installments at the same time as county, city, and school district taxes
21 are paid.

22 (b) (1) If any taxes levied by the board under this chapter are not paid
23 at maturity, the county tax collector shall not embrace the taxes in the taxes
24 for which he shall sell the lands, but shall report the delinquencies to the
25 board of the district, which shall add to the amount of the tax a penalty of
26 twenty-five percent (25%).

27 (2) The board shall enforce the collection by chancery proceedings in
28 the chancery court of the county in which the lands are situated having
29 chancery jurisdiction. The court shall give judgment against the lands for
30 the amount of *the delinquent taxes*, and the penalty of twenty-five percent
31 (25%) and interest thereon, from the end of the sixty (60) days allowed for
32 the collection thereof, at the rate of six percent (6%) per annum, and all
33 costs of the proceedings.

34 (3) The judgments shall provide for the sale of the delinquent lands
35 for cash by a commissioner of the court, after advertisement as set out in §

1 14-94-122(E) .

2 (4) Proceedings and judgment shall be in the nature of proceedings in
3 rem.

4 (5) It shall be immaterial that the ownership of the lands be
5 incorrectly alleged in the proceedings. Judgment shall be enforced wholly
6 against the lands and not against any other property or estate of the
7 defendant.

8 (6) All or any part of the delinquent lands for each of the counties
9 may be included in one (1) suit for each county, instituted for the collection
10 of the delinquent taxes, etc., as aforesaid.

11 (B) Notice of proceedings for collection of taxes.

12 Notice of the pendency of the suit shall be given by publication weekly
13 for four (4) weeks before judgment is entered for the sale of the lands in
14 some newspaper published in the county where the suits may be pending, which
15 public notice may be in the following terms:

16 'Board of Commissioners, Municipal Property
17 Owners' Improvement District

18 vs.

19 Delinquent Lands.

20 All persons having or claiming an interest in any of the following
21 described lands, are hereby notified that suit is pending in the Chancery
22 Court of _____ County, Arkansas, to enforce the collection of certain
23 municipal property owners' improvement district taxes on the subjoined list of
24 lands, each supposed owner having been set opposite his or her or its lands,
25 together with the amounts severally due from each, to wit:

26 (Then shall follow a list of supposed owners, with a descriptive list of
27 said delinquent lands, and amounts due thereon respectively as aforesaid), and
28 said public notice may conclude in the following form:

29 All persons and corporations interested in said lands are hereby
30 notified that they are required by law to appear within four (4) weeks and
31 make defense to said suit, or the same will be taken for confessed and final
32 judgment will be entered directing the sale of said lands for the purpose of
33 collecting said taxes, together with the payment of interest, penalty and
34 costs allowed by law.

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Clerk of Said Court.'

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(C) Trial date - Suit by bondholder.

(a) The suit shall stand for trial at the first term of court after the complaint may be filed, if four (4) weeks shall expire either before the first day of the term, or during the term of court to which the suits are brought respectively, unless a continuance is granted for good cause shown, within the discretion of the court. The continuance, for good cause shown, may be granted as to a part of the lands or defendants without affecting the duty of the court to dispose finally of the others as to whom no continuance may be granted.

(b) In case the commissioners shall fail to commence suit within sixty (60) days after the taxes become delinquent, the holder of any bond issued by the district or any trustee on behalf of the holder of any bond issued by the district, shall have the right to bring suit for the collection of the delinquent assessments, and the proceedings in the suit brought by the bondholder or trustee shall in all respects be governed by the provisions applicable to suits by the commissioners.

(D) Trial procedure.

(a) Suits for collection shall be conducted in the name of the municipal property owners' improvement district, and in accordance with the practice and proceedings of chancery courts in this state, except as otherwise provided in this chapter, and neither attorneys ad litem nor guardians ad litem, nor any of the provisions of § 16-65-403 shall be required.

(b) The suits may be disposed of on oral testimony, as in ordinary suits at law.

(c) This law shall be liberally construed to give to the assessment and tax lists the effect of bona fide mortgage for a valuable consideration, and a first lien upon the lands, as against all persons having an interest therein.

(d) In such suits it shall be sufficient to allege generally and briefly the organization of the district and the nonpayment of the taxes, setting forth the description of the lands proceeded against, and the amount chargeable to each tract, with prayer for foreclosure.

(e) No informality or irregularity in holding any of the meetings provided for herein, in valuation, in assessment of the lands, or in the name of the owners, or the number of acres therein shall be a valid defense to the

1 action.

2 (E) Sale of land.

3 (a) (1) In all cases where notice has been properly given and where no
4 answer has been filed or, if filed, and the cause decided for the plaintiff,
5 the court, by its decree, shall grant the relief as prayed for in the
6 complaint. The court shall direct the commissioner to sell the lands
7 described in the complaint at the courthouse door of the county wherein the
8 decree is entered, at public outcry, to the highest and best bidder, for cash
9 in hand, after having first advertised the sale weekly for two (2) weeks,
10 consecutively, in some newspaper having a general circulation in the county.
11 The advertisement may include all the lands described in the decree.

12 (2) If all the lands are not sold on the day as advertised, the
13 sale shall continue from day to day until completed.

14 (3) The commissioner shall by proper deeds convey to the
15 purchaser the lands so sold. The title to the lands shall thereupon become
16 vested in the purchaser as against all others whomsoever.

17 (b) (1) In any case where the lands are offered for sale by the
18 commissioner, as provided by this act, and the sum of *the delinquent tax* due,
19 together with interest, cost and penalty, is not bid for the lands, the
20 commissioner shall bid the lands off in the name of the board of directors of
21 the municipal property owners' improvement district, bidding therefor the
22 whole amount due as aforesaid.

23 (2) The commissioner shall execute his deed conveying the land to the
24 municipal property owners' improvement board. No report of sale other than
25 the execution of the deed and its submission to the court for approval and no
26 confirmation other than approval of the deed need be made in any such case,
27 and a deed to the land executed by the commissioner, approved by the court and
28 recorded, shall be conclusively presumed to be in consideration of the total
29 amount rightfully due to the district whether that amount is stated or whether
30 it is stated correctly or incorrectly in the deed.

31 (3) The deeds, together with other deeds as are duly executed in
32 conformity to the provisions of this act and recorded, shall be received as
33 evidence in all cases showing an indefeasible title in the district
34 unassailable in either law or equity.

35 (c) *No provision contained herein shall relieve any purchasers of*

1 lands, excluding the district, from the obligation to pay all future taxes
2 levied under the terms of this chapter following the enforcement of these
3 foreclosure procedures. The obligation to pay all future taxes shall also
4 extend to any purchaser of lands who purchases such lands from the district
5 following the district's obtaining of the land pursuant to subsection (b)
6 hereunder.

7 (F) Attorney's fees.

8 In all suits brought for collection of delinquent taxes under this
9 subchapter, a reasonable attorney's fee shall be taxed in favor of the
10 attorney for the plaintiff, which fee shall be added to the amount of the
11 cost.

12 (G) Redemption.

13 (a) At any time within thirty (30) days after the rendition of the
14 final decree of the chancery court provided for in this subchapter, the owner
15 of the lands may file his petition in the court rendering the decree, alleging
16 the payment of taxes on the land for the year for which they were sold and
17 payment of all costs associated with the enforcement of the provisions of this
18 chapter, including attorney's fees.

19 (b) Upon the establishment of that fact, the court shall vacate and set
20 aside that decree, provided that any landowner shall have the right within
21 thirty (30) days after the day upon which lands are offered for sale to redeem
22 any and all lands sold at the sale."

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24 SECTION 2. All provisions of this act of a general and permanent nature
25 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
26 Revision Commission shall incorporate the same in the Code.

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28 SECTION 3. If any provision of this act or the application thereof to
29 any person or circumstance is held invalid, such invalidity shall not affect
30 other provisions or applications of the act which can be given effect without
31 the invalid provision or application, and to this end the provisions of this
32 act are declared to be severable.

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34 SECTION 4. All laws and parts of laws in conflict with this act are
35 hereby repealed.

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SECTION 5. EMERGENCY. It is hereby found and determined by the General Assembly that the foreclosure procedure for tax delinquent lands in a municipal property owners' improvement district is unreasonable in length of time and greatly infringes on the rights of bondholders or other interested parties to foreclose upon the land securing their bonds. Therefore, in order to shorten the time in which a bondholder or other interested party may foreclose upon tax delinquent lands within a municipal property owners' improvement district, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

/s/ E. Cunningham