

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997

# A Bill

HOUSE BILL 1541

4  
5 By: Representative Dietz

## For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED § 14-93-123 TO  
10 AMEND THE METHOD FOR ENFORCING THE COLLECTION OF  
11 IMPROVEMENT DISTRICT TAXES BY PROPERTY OWNERS IMPROVEMENT  
12 DISTRICTS; AND FOR OTHER PURPOSES."

## Subtitle

15 "TO AMEND THE METHOD FOR ENFORCING THE  
16 COLLECTION OF IMPROVEMENT DISTRICT TAXES  
17 BY PROPERTY OWNERS IMPROVEMENT  
18 DISTRICTS."

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

21  
22 SECTION 1. Arkansas Code 14-93-123 is amended to read as follows:

23 "§ 14-93-123. Payment of taxes - Enforcement.

24 (a) All taxes levied under the terms of this chapter shall be payable  
25 in installments at the same time as other state, county, and city taxes are  
26 paid.

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

32 (2) The board shall enforce the collection by chancery  
33 proceedings in the chancery court of the county, ~~in the manner provided by~~ <sup>AA</sup>  
34 ~~14-121-426 - 14-121-432 relating to drainage districts in this state in which~~  
35 the lands are situated having chancery jurisdiction. The court shall give  
36 judgment against the lands for the amount of the delinquent taxes, and the

1 penalty of twenty-five percent (25%) and interest thereon, from the end of the  
2 sixty (60) days allowed for the collection thereof, at the rate of six percent  
3 (6%) per annum, and all costs of the proceeding.

4 (3) The judgments shall provide for the sale of the delinquent  
5 lands for cash by a commissioner of the court, after advertisement as set out  
6 in subsection (c) of this section.

7 (4) Proceedings and judgment shall be in the nature of  
8 proceedings in rem.

9 (5)(A) It shall be immaterial that the ownership of the lands be  
10 incorrectly alleged in the proceedings.

11 (B) Judgment shall be enforced wholly against the lands and  
12 not against any other property or estate of the defendant.

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

16 (7) The procedures set forth in this provision shall apply to all  
17 improvement districts subject to this chapter and shall apply retroactively to  
18 those improvement districts already subject to this chapter.

19 (c) Notice of Proceedings for Collection of Taxes. Notice of the  
20 pendency of the suit shall be given by publication weekly for four (4) weeks  
21 before judgment is entered for the sale of the lands in some newspaper  
22 published in the county where the suits may be pending, which public notice  
23 may be in the following terms:

24 Board of Commissioners, Property Owners Improvement District

25 vs.

26 Delinquent Lands

27 All persons having or claiming an interest in any of the following  
28 described lands, are hereby notified that suit is pending in the Chancery  
29 Court of \_\_\_\_\_County, Arkansas, to enforce the collection of certain  
30 property owners improvement district taxes on the subjoined list of lands,  
31 each supposed owner having been set opposite his or her or its lands, together  
32 with the amounts severally due from each, to wit:.....

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

36 All persons and corporations interested in said lands are hereby

1 notified that they are required by law to appear within four (4) weeks and  
 2 make defense to said suit, or the same will be taken for confessed, and final  
 3 judgment will be entered directing the sale of said lands for the purpose of  
 4 collecting said taxes, together with the payment of interest, penalty, and  
 5 costs allowed by law.

6

7 Clerk of Said Court.

8 (d) Trial Date - Suit by Bondholder. (1)(A) The suit shall stand for  
 9 trial at the first term of court after the complaint may be filed, if four (4)  
 10 weeks shall expire either before the first day of the term, or during the term  
 11 of court to which the suits are brought respectively, unless a continuance is  
 12 granted for good cause shown, within the discretion of the court.

13 (B) The continuance, for good cause shown, may be granted  
 14 as to a part of the lands or defendants without affecting the duty of the  
 15 court to dispose finally of the others as to whom no continuance may be  
 16 granted.

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

24 (e) Trial Procedure. (1) Suits for collection shall be conducted in  
 25 the name of the property owners improvement district, and in accordance with  
 26 the practice and proceedings of chancery courts in this state, except as  
 27 otherwise provided in this chapter, and neither attorneys ad litem, nor  
 28 guardians ad litem, nor any of the provisions of § 16-65-403[repealed] shall  
 29 be required.

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

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

36 (4) In such suits, it shall be sufficient to allege generally and

1 briefly the organization of the district and the nonpayment of the taxes,  
 2 setting forth the description of the lands proceeding against, and the amount  
 3 chargeable to each tract, with prayer for foreclosure.

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

8 (f) Sale of the Land. (1)(A) In all cases where notice has been  
 9 properly given and where no answer has been filed, or if filed, and the cause  
 10 decided for the plaintiff, the court, by its decree, shall grant the relief as  
 11 prayed for in the complaint.

12 (B)(i) The court shall direct the commissioner to sell the  
 13 lands described in the complaint at the courthouse door of the county wherein  
 14 the decree is entered, at public outcry, to the highest and best bidder, for  
 15 cash in hand, after having first advertised the sale weekly for two (2) weeks,  
 16 consecutively, in some newspaper having a general circulation in the county.

17 (ii) The advertisement may include all the  
 18 lands described in the decree.

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

21 (3) The commissioners shall by proper deeds convey to  
 22 the purchaser the lands so sold. The title to the lands shall thereupon  
 23 become vested in the purchaser as against all others whomsoever.

24 (g)(1) In any case where the lands are offered for sale by the  
 25 commissioner, as provided by this subchapter, and the sum of the delinquent  
 26 tax due, together with interest, cost, and penalty, is not bid for the lands,  
 27 the commissioner shall bid the lands off in the name of the board of directors  
 28 of the property improvement district, bidding therefore the whole amount due  
 29 as aforesaid.

30 (2)(A) The commissioner shall execute his deed conveying the land  
 31 to the property owners improvement district board.

32 (B) No report of sale other than the execution of the deed  
 33 and its submission to the court for approval and no confirmation other than  
 34 approval of the deed need be made in any such case and a deed to the land  
 35 executed by the commissioner, approved by the court and recorded, shall be  
 36 conclusively presumed to be in consideration of the total amount rightfully

1 due to the district whether that amount is stated or whether it is stated  
 2 correctly or incorrectly in the deed.

3 (3) The deeds, together with other deeds as are duly executed in  
 4 conformity to the provision of this subchapter and recorded, shall be received  
 5 as evidence in all cases showing an indefeasible title in the district,  
 6 unassailable in either law or equity.

7 (h)(1) No provision contained herein shall relieve any purchasers of  
 8 lands, excluding the district, from the obligation to pay all future taxes  
 9 levied under the terms of this chapter following the enforcement of these  
 10 foreclosure proceedings.

11 (2) The obligation to pay all future taxes shall also extend to  
 12 any purchaser of lands who purchases such lands from the district following  
 13 the districts obtaining of the land pursuant to subsection (g) of this  
 14 section.

15 (i) Attorneys Fees. In all suits brought for collection of delinquent  
 16 taxes under this subchapter, a reasonable attorneys fee shall be taxed in  
 17 favor of the attorney for the plaintiff, which fee shall be added to the  
 18 amount of the cost.

19 (j) Redemption. (1) At any time within thirty (30) days after the  
 20 rendition of the final decree of the chancery court provided for in this  
 21 subchapter, the owner of the lands may file his petition in the court  
 22 rendering the decree, alleging the payment of taxes on the land for the year  
 23 for which they were sold and payment of all costs associated with the  
 24 enforcement of the provisions of this chapter, including attorneys fees.

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

29

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

33

34 SECTION 3. If any provision of this act or the application thereof to  
 35 any person or circumstance is held invalid, such invalidity shall not affect  
 36 other provisions or applications of the act which can be given effect without

1 the invalid provision or application, and to this end the provisions of this  
2 act are declared to be severable.

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

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