

State of Arkansas
85th General Assembly
Regular Session, 2005

A Bill

HOUSE BILL 2470

By: Representative Stovall

For An Act To Be Entitled

AN ACT TO INCREASE LOCAL REVENUES FOR SCHOOL DISTRICTS AND COUNTIES BY REQUIRING PROPERTY SELLERS TO PAY A RECOUPMENT OF TAX TO THE COUNTY FOR SALES OF REAL PROPERTY IN WHICH THE PER ACRE PRICE EQUALS OR EXCEEDS FIVE THOUSAND DOLLARS (\$5,000); AND FOR OTHER PURPOSES.

Subtitle

TO INCREASE LOCAL REVENUES FOR SCHOOL DISTRICTS AND COUNTIES BY REQUIRING PROPERTY SELLERS TO PAY A RECOUPMENT OF TAX FOR SALES OF REAL PROPERTY IN WHICH THE PER ACRE PRICE EQUALS OR EXCEEDS FIVE THOUSAND DOLLARS (\$5,000).

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

SECTION 1. Arkansas Code Title 26, Chapter 26, Subchapter 4 is amended to add a new section to read as follows:

26-26-411. Recoupment of tax.

(a) When real property that has been valued for ad valorem tax purposes as agricultural land, pasture land, or timber land is sold for a consideration equal to or exceeding five thousand dollars (\$5,000) per acre:

(1) It is a rebuttable presumption that the use of the property has changed;

(2) Unless otherwise agreed between the buyer and seller, the property seller shall be liable for recoupment in an amount equal to the



1 difference between:

2 (A) Three (3) times the tax that would have been imposed
3 in the year in which the change of use occurs had the real property been
4 taxed on the basis of the selling price of the property; and

5 (B) The taxes actually imposed on the real property for
6 each of the three (3) years preceding the year in which the change of use
7 occurs; and

8 (3) Recoupment shall be paid to the county collector of the
9 county in which the real property is located.

10 (b)(1) A seller who chooses to establish that no change of use
11 occurred must:

12 (A) Pay recoupment under subsection (a) of this section to
13 the county collector; and

14 (B) File a petition with the county court within thirty
15 (30) days from the date of payment of recoupment.

16 (2) After the petition is filed, the county court shall set a
17 hearing within thirty (30) days after the filing of the petition.

18 (3) At the hearing, the seller shall present evidence to
19 establish that no change of use occurred as a result of the sale of the real
20 property.

21 (4) The county court shall provide the seller, county assessor,
22 and county clerk with the court's decision in writing within ten (10)
23 business days after the hearing.

24 (5) The property owner or county assessor may appeal the county
25 court's decision to circuit court within thirty (30) days after the date of
26 the decision.

27 (6) If a court of final jurisdiction determines that no change
28 of use occurred as a result of the sale of property by the seller, then the
29 county collector shall refund to the seller the recoupment paid.

30 (b) If the change of use applies to only part of a parcel, the
31 recoupment applies only to that part of the parcel and equals the difference
32 between the taxes imposed on that part of the parcel and the taxes that would
33 have been imposed had that part been taxed on the basis of market value.

34 (c) It shall be the duty of the buyer, or his agent, to furnish proof
35 of payment of recoupment as provided in this section before the real estate
36 transfer instrument may be accepted by the county recorder of deeds for

1 recording.

2 (d)(1) The county recorder of deeds shall not record any instrument
3 evidencing a sale of real property subject to recoupment unless the
4 instrument is accompanied by an affidavit that includes the following
5 statement:

6 "I certify under penalty of false swearing that the legally correct
7 amount of recoupment has been paid on the sale of real property evidenced by
8 this instrument."

9 (2) This statement shall be signed by the seller or the seller's
10 agent.

11 (3) The seller's address shall be clearly shown on the
12 instrument.

13 (e) Any person filing a deed for record who knowingly, willfully, and
14 fraudulently files the deed in violation of this section shall, upon
15 conviction thereof, in addition to other penalties provided by law, be
16 subject to a fine of five hundred dollars (\$500).

17 (f) Any funds collected under this section shall be credited to the
18 general fund of the county in which the property is located and distributed
19 to the applicable taxing units in the manner and proportion that ad valorem
20 taxes are distributed during the year in which the recoupment is paid.

21 (g) The Assessment Coordination Department may by regulation adjust
22 upward the five-thousand-dollar-per-acre threshold established in subsection
23 (a) of this section if the department determines that market conditions for
24 agricultural land, timber land, or pasture land are such that selling the
25 property for at least five thousand dollars (\$5,000) per acre is no longer a
26 rebuttable presumption that the use of the property has changed as a result
27 of the sale.

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29 SECTION 2. EFFECTIVE DATE. The provisions of this act shall become
30 effective on January 1, 2006.