

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

A Bill

HOUSE BILL 2759

5 By: Representative Verkamp
6
7

For An Act To Be Entitled

8 AN ACT TO PROVIDE FOR THE DISBURSEMENT OF FUNDS
9 FROM THE SALE OF TAX DELINQUENT LANDS; AND FOR
10 OTHER PURPOSES.
11

Subtitle

12 AN ACT TO PROVIDE FOR THE DISBURSEMENT
13 OF FUNDS FROM THE SALE OF TAX DELINQUENT
14 LANDS.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 26-37-205 is amended to read as follows:
22 26-37-205. Distribution of funds.

23 (a) All moneys collected by the Commissioner of State Lands from the
24 sale or redemption of tax delinquent lands shall be distributed as follows:

25 (1)(A) First, to the Commissioner of State Lands, the penalties,
26 the collection fees, sale costs, and other costs as prescribed by law~~+~~.

27 (B) The sale costs shall include, but not be limited to,
28 fees for title work;

29 (2) Second, an amount to each county equal to the taxes due plus
30 interest and costs to the county as certified by the county tax collector,
31 which amount shall be held in an escrow fund administered by the Commissioner
32 and remitted to the counties within one (1) calendar year of their receipt by
33 the Commissioner; and

34 (3) Third, the remainder, if any, shall be placed in another
35 escrow fund administered by the Commissioner.

36 (b) If no actions are brought within the time limits prescribed under



1 this subchapter, the remaining funds, if any, shall be distributed by the
 2 Commissioner of State Lands as follows:

3 (1) Ten percent (10%) of the remaining funds up to a maximum
 4 amount of five hundred dollars (\$500) shall be paid to the Commissioner of
 5 State Lands for the administration of the distribution of the funds;

6 ~~(1)(A)(i)~~(2)(A) ~~To~~ After payment is made to the Commissioner of
 7 State Lands pursuant to subdivision (b)(1) of this section, the amount left
 8 in the remaining funds shall be paid to the former owners of the tax
 9 delinquent land.

10 (B)(i) "Former owner" means a person, partnership,
 11 corporation, or other legal entity capable of owning real property in the
 12 State of Arkansas and that held record title to the real property on the date
 13 of sale by the Commissioner of State Lands.

14 (ii) "Former owner" does not include heirs or
 15 relations beyond the first degree of consanguinity.

16 ~~(ii)(C)(i)~~ Such A former owners owner must file an
 17 application with the Commissioner of State Lands requesting the release of
 18 ~~any remaining the~~ funds.

19 (ii) The application shall be provided by the
 20 Commissioner of State Lands and shall require proof of ownership of the tax
 21 delinquent land as well as proof of authority to act on behalf of the owner.

22 (iii) ~~In addition, the~~ The application may require
 23 other information the Commissioner of State Lands ~~may deem~~ deems necessary
 24 before the release of the funds.

25 (D)(i) The former owner shall release and relinquish all
 26 rights, title, and interests in and to the tax delinquent land.

27 (ii) The Commissioner of State Lands shall provide a
 28 release deed to the former owner to execute.

29 ~~(B)(E)~~ (E) In the event of any dispute, claim, or multiple
 30 claims of ownership or controversy regarding the release of ~~such~~ funds, ~~it~~
 31 ~~shall be the responsibility of the parties seeking release of the funds to~~
 32 ~~resolve the controversy; and~~ the Commissioner of State Lands may require the
 33 party or parties to provide a court order to resolve the issues and to
 34 establish the party or parties entitled to the remaining funds.

35 (F) An agreement by a former owner, the primary purpose of
 36 which is to locate, deliver, recover, or assist in the recovery of remaining

1 funds, is enforceable only if the agreement:

2 (i) Is in writing;

3 (ii) Clearly sets forth the nature of the property
4 and the services to be rendered;

5 (iii) Provides for a fee of not more than ten
6 percent (10%) of the recovery;

7 (iv) Is signed by the former owner; and

8 (v) States the value of the remaining funds before
9 and after the fee or other compensation has been deducted.

10 (G)(i) An agreement covered by subdivision (b)(2)(F) of
11 this section that provides for compensation that is unconscionable is
12 unenforceable except by the former owner.

13 (ii) A former owner who has agreed to pay
14 compensation that is unconscionable may maintain an action to reduce the
15 compensation to a conscionable amount.

16 (iii) The court may award reasonable attorney's fees
17 to a former owner that prevails in the action.

18 (H) Subdivision (b)(2)(G) of this section does not
19 preclude a former owner from asserting that an agreement covered by
20 subdivision (b)(2)(F) of this section is invalid on grounds other than
21 unconscionable compensation.

22 (I)(i) The Commissioner of State Lands shall make all
23 funds payable to the former owner.

24 (ii) No funds shall be made payable to any other
25 person or entity other than the former owner without a court order directing
26 the payment to the other person or entity.

27 (iii) No interest shall be paid to the former owner
28 on the funds.

29 (J)(i) Anyone filing a claim or assisting with the filing
30 of a claim that results in the erroneous payment of a claim is responsible
31 for the repayment of all funds paid.

32 (ii) Any claim filed fraudulently is punishable as a
33 Class D felony; and

34 ~~(2)(3)(A) The funds~~ Any funds placed in escrow prior to July 1,
35 2005, shall be held in escrow for five (5) more years, and if at the end of
36 the five-year period, if the funds have not been distributed, the escrow

1 funds shall escheat to the county in which the property is located.

2 (B) Any funds placed in escrow on and after July 1, 2005,
3 shall be held for three (3) years and at the end of the three-year period, if
4 the funds have not been distributed, the escrow funds shall escheat to the
5 county in which the property is located.

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

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

18 (e) This section shall be severable and if any phrase, clause,
19 sentence, or provision of this section is declared to be contrary to the laws
20 of this state, the validity of the remainder of this section shall not be
21 affected.

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23 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
24 General Assembly of the State of Arkansas that there is currently confusion
25 in the law concerning the disbursement of funds on sales of tax delinquent
26 property by the Commissioner of State Lands; and that this act is immediately
27 necessary because it will provide direction and clarification to determine
28 the validity of claims concerning tax delinquent lands. Therefore, an
29 emergency is declared to exist and this act being immediately necessary for
30 the preservation of the public peace, health, and safety shall become
31 effective on July 1, 2005.