

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

As Engrossed: S3/16/11

A Bill

SENATE BILL 852

5 By: Senator D. Wyatt
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE PROCEDURES FOR THE SALE OF COUNTY
9 PROPERTY; AND FOR OTHER PURPOSES.
10

Subtitle

11 TO AMEND THE PROCEDURES FOR THE SALE OF
12 COUNTY PROPERTY.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code § 14-16-105 is amended to read as follows:
20 14-16-105. Sale of county property generally.

21 (a) The county court of each county shall have power and jurisdiction
22 to sell and cause to be conveyed any real estate or personal property
23 belonging to the county and to appropriate the proceeds of the sale for the
24 use of the county by proceeding in the manner set forth in this section.

25 (b)(1) ~~Whenever~~ When the county judge of ~~any a~~ a county shall consider
26 it advisable and to the best interest of the county to sell and convey any
27 real or personal property belonging to the county, he or she shall cause an
28 order to be entered in the county court setting forth:

29 (A) A description of the property to be sold;

30 (B) The reason for the sale; and

31 (C) An order directing the county assessor to cause the
32 property to be appraised at its fair market value and to certify his or her
33 appraisal ~~thereof~~ of the property to the county court within a time to be
34 specified in the order.

35 (2) A certified copy of the order shall be delivered to the
36 county assessor by the county clerk, and the county clerk shall certify the



1 date of the delivery of the copy on the margin of the record where the order
2 is recorded.

3 (3) An order and the procedures ~~prescribed~~ as used in this
4 section shall not be required for any sale by the county of any materials
5 separated, collected, recovered, or created by a recycling program authorized
6 and operated by the county. However, the county judge shall maintain a record
7 of the recyclable materials sold, whether they were sold at public or private
8 sale, a description of the recyclables sold, the name of the purchaser, and
9 the terms of the sale. All the proceeds of the sale shall be deposited with
10 the county treasurer.

11 (4) An order and the procedures described in this section shall
12 not be required for any conveyance by the county of a conservation easement
13 as described in the Conservation Easement Act, § 15-20-401 et seq. However,
14 ~~no such~~ this conveyance shall not be made unless authorized by a majority
15 vote of the quorum court.

16 (5) If property is sold under § 14-16-106, the requirements of
17 this section are not applicable.

18 (c)(1) Upon receipt of the certified copy of the order, the county
19 assessor shall view the property described in the order and shall cause ~~it~~
20 the property to be appraised at its fair market value.

21 (2) Within the time specified in the order, the assessor shall
22 file with the county clerk his or her written certificate of appraisal of the
23 property.

24 (d)(1) If the appraised value of the property described in the order
25 is less than the sum of two thousand dollars (\$2,000), the property may
26 thereafter be sold and conveyed by the county judge, either at public or
27 private sale, by sealed bids or Internet sale for not less than three-fourths
28 ($\frac{3}{4}$) of the appraised value as shown by the certificate of appraisal filed by
29 the assessor.

30 (2)(A) If the property will be sold by Internet sale, the notice
31 of sale shall be placed on the website of the Internet vendor for no less
32 than eight (8) consecutive days before the date of sale and shall contain a
33 description of the property to be sold and the time of the sale.

34 (B) An additional notice may be posted on a county-owned
35 or county-affiliated website, trade website, or business website for no less
36 than eight (8) consecutive days before the date of sale.

1 ~~(2)~~(3)(A) When the sale has been completed, the county court
2 shall enter its order approving the sale.

3 (B) The order shall set forth:

4 (i) The description of the property sold;

5 (ii) The name of the purchaser;

6 (iii) The terms of the sale; ~~and~~

7 (iv)~~(a)~~ That the proceeds of the sale have been
8 deposited with the county treasurer; and

9 ~~(b)~~(v) The funds to which the proceeds were credited
10 by the county treasurer.

11 (e)(1)(A)(i) If the appraised value of the property to be sold exceeds
12 the sum of two thousand dollars (\$2,000), the county judge may sell the
13 property to the highest and best bidder, upon sealed bids received by the
14 judge or by Internet sale.

15 (ii) The sheriff, the treasurer, and the circuit
16 clerk of the county in which the property is to be sold shall constitute a
17 board of approval for the sales, and the judge shall be the ex officio chair
18 of the board without a vote.

19 (B) ~~Such property, when it~~ When the property exceeds the
20 appraised value of two thousand dollars (\$2,000), it shall not be sold for
21 less than three-fourths ($\frac{3}{4}$) of its appraised value as determined by the
22 certificate of the assessor.

23 (2)(A) Notice of the sale shall be published ~~for~~ in two (2)
24 consecutive weekly insertions in some newspaper published and having a
25 general circulation in the county.

26 (B) The notice shall specify:

27 (i) The description of the property to be sold;

28 (ii) The time and place for submitting written bids,
29 including that the sale may be conducted on the Internet; and

30 (iii) The appraised value of the property to be
31 sold.

32 (C) The notice shall be dated and signed by the judge.

33 (D) If the sale is conducted on the Internet, the notice
34 shall be placed on the Internet under this section, and the invoice from the
35 Internet vendor or publisher shall be accompanied by a statement from the
36 Internet vendor or publisher that the sale was published and conducted on the

1 Internet.

2 (3) The judge shall have the right to reject any and all bids
3 received by him or her ~~pursuant to~~ under the notice.

4 (4)(A) When the judge has accepted a bid for the property, he or
5 she, as chair of the approval board, shall immediately call a meeting of the
6 board, and the proposals to sell at the acceptable bid shall be submitted to
7 the board for its approval.

8 (B)(i) If a majority of the board approves the sale, then
9 the judge may sell and convey the property to the highest bidder.

10 (ii) When the sale has been approved and completed,
11 the county court shall enter an order approving the sale, which shall set
12 forth the details of the sale as provided in subdivision (d)(2)(B) of this
13 section.

14 (f)(1)(A)(i) Any sale or conveyance of real or personal property
15 belonging to any county not made ~~pursuant to~~ under the terms of this section
16 shall be null and void.

17 (ii) The county fixed-asset list shall be amended to
18 reflect all sales or conveyances made by the county under this section.

19 (B)(i) Any taxpayer of the county may bring an action to
20 cancel the sale and to recover possession of the property sold within two (2)
21 years from the date a sale is consummated.

22 (ii) This action for the use and benefit of the
23 county is to be taken in the circuit court of the county in which the sale is
24 made or in any county where personal property so sold may be found.

25 (iii) ~~In the event~~ If the property is recovered for
26 the county in the action, the purchaser shall not be entitled to a refund of
27 the consideration paid by him or her for the sale.

28 (2) The procedures for sale and conveyance of county property
29 set forth in this section shall not apply in these instances:

30 (A) When personal property of the county is traded in on
31 new or used equipment and credit approximating the fair market price of the
32 personal property is given to the county toward the purchase price of new
33 equipment;

34 (B) When the sale of the personal property of the county
35 involves the sale by the county of any materials separated, collected,
36 recovered, or created by a recycling program authorized and operated by the

1 county;

2 (C) When the county is conveying an easement, including,
3 but not limited to, easements granted upon county lands for water
4 improvements, sewer improvements, gas lines, electric lines, phone lines,
5 utilities, railways, public roads, highways, and conservation easements as
6 described in § 15-20-401 et seq. for any of the purposes enumerated in § 15-
7 20-401 et seq., as the same may be amended from time to time; ~~or~~

8 (D) When the county is leasing county property, including,
9 but not limited to, leasing county lands or property under § 14-16-108, § 14-
10 16-109, § 14-16-110, or the Municipalities and Counties Industrial
11 Development Revenue Bond Law, § 14-164-201 et seq.; or

12 (E) When a sale or disposal of property is conducted under
13 another section of the Arkansas Code.

14 (g)(1) County hospitals constructed or maintained in whole or part by
15 taxes approved by the voters shall not be sold unless the sale is approved by
16 the majority of electors voting on the issue at a general or special
17 election. This subsection ~~is applicable~~ applies to county hospitals
18 constructed before and after July 20, 1987.

19 (2) An election shall not be required for the sale of a county
20 hospital that has been vacant or not used as a county hospital for more than
21 one hundred twenty (120) days.

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23 SECTION 2. Arkansas Code § 14-16-106 is amended to read as follows:
24 14-16-106. Sale or disposal of surplus property.

25 (a) If it is determined by the county judge to be surplus, any
26 personal or real property owned by a county may be sold at public auction or
27 Internet auction to the highest bidder.

28 (b)(1) Notice of the public auction shall be published at least one
29 (1) time a week for two (2) consecutive weeks in a newspaper having general
30 circulation in the county.

31 (2) The notice shall specify the description of the property to
32 be sold and the time and place of the public auction.

33 (3)(A) If the property will be sold by Internet sale, the notice
34 of sale shall be placed on the website of the Internet vendor for no less
35 than eight (8) consecutive days before the date of sale and shall contain a
36 description of the property to be sold and the time of the sale.

1 (B) An additional notice may be posted on a county-owned
2 or county-affiliated website, trade website, or business website for no less
3 than eight (8) consecutive days before the date of sale.

4 (c)(1) If it is determined by the county judge and the county assessor
5 that any personal property owned by a county is junk, scrap, discarded, or
6 otherwise of no value to the county, then the property may be disposed of in
7 any manner deemed appropriate by the county judge.

8 (2) However, the county judge shall report monthly to the quorum
9 court any property that has been disposed of under subdivision (c)(1) of this
10 section.

11 (d) If the sale is conducted on the Internet, the invoice from the
12 Internet vendor or publisher shall be accompanied by a statement from the
13 Internet vendor or publisher that the sale was published and conducted on the
14 Internet.

15 (e)(1) When the sale is complete, the county court shall enter an
16 order approving the sale.

17 (2) The order shall set forth:

18 (A) The description of the property sold;

19 (B) The name of the purchaser;

20 (C) The terms of the sale;

21 (D) That the proceeds of the sale have been deposited with
22 the county treasurer; and

23 (E) The funds to which the proceeds were credited by the
24 county treasurer.

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26 /s/D. Wyatt
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