

State of Arkansas  
89th General Assembly  
Regular Session, 2013

# A Bill

HOUSE BILL 1191

By: Representative Hammer

## For An Act To Be Entitled

AN ACT TO PROVIDE ADDITIONAL METHODS FOR COLLECTING  
DELINQUENT RURAL FIRE DEPARTMENT DUES AND FEES; TO  
ALLOW COUNTY COLLECTORS AND FIRE CHIEFS TO CERTIFY  
DELINQUENT RURAL FIRE DEPARTMENT DUES AND FEES TO THE  
COMMISSIONER OF STATE LANDS FOR COLLECTION; TO ALLOW  
THE COMMISSIONER OF STATE LANDS TO INCLUDE DELINQUENT  
RURAL FIRE DEPARTMENT DUES AND FEES IN THE SALE OR  
REDEMPTION PRICE OF TAX-DELINQUENT PROPERTY; TO MAKE  
TECHNICAL CHANGES; AND FOR OTHER PURPOSES.

## Subtitle

TO ALLOW THE COMMISSIONER OF STATE LANDS  
TO INCLUDE DELINQUENT RURAL FIRE  
DEPARTMENT DUES AND FEES IN THE SALE OR  
REDEMPTION PRICE OF TAX-DELINQUENT  
PROPERTY.

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

SECTION 1. Arkansas Code § 26-37-101(b), concerning the transfer of  
tax-delinquent property, is amended to read as follows:

(b) The county collector shall hold all tax-delinquent lands in the  
county for one (1) year after the date of delinquency, and, if the lands are  
not redeemed by the certification date, which shall be no later than July 1  
of the following year, the county collector shall transmit ~~it~~ the tax-  
delinquent land to the state by certification, after notice as provided in  
this chapter, indicating all taxes, penalties, interest, fire department dues



1 and fees under § 26-37-110, and costs due and the name and last known address  
2 of the owner of record of the tax-delinquent lands.

3  
4 SECTION 2. Arkansas Code § 26-37-102(a), concerning the publication of  
5 notice of property to be certified as tax-delinquent property, is amended to  
6 read as follows:

7 (a) The county collector in each county shall, not less than thirty  
8 (30) days nor more than forty (40) days ~~prior to~~ before the certification of  
9 the land, cause to be published in a newspaper of general circulation in the  
10 county:

11 (1) A list of real property not previously redeemed;

12 (2) The names of the owners of record;

13 (3) The amount of the taxes, penalties, interest, any fire  
14 department dues and fees under § 26-37-110, and ~~cost~~ costs necessary to be  
15 paid to redeem the property;

16 (4) The date upon which ~~such~~ the period of redemption expires;  
17 and

18 (5) Notice that unless the property is redeemed ~~prior to~~ before  
19 the expiration of the period of redemption, the lands will be forfeited to  
20 the state.

21  
22 SECTION 3. Arkansas Code Title 26, Chapter 37, Subchapter 1, is  
23 amended to add an additional section to read as follows:

24 26-37-110. Collection of rural fire department dues and fees.

25 (a) As used in this section, "rural fire department" means a:

26 (1) Rural volunteer fire department;

27 (2) Fire protection district under § 14-284-201 et seq.; and

28 (3) Rural fire protection district as defined in § 14-284-301.

29 (b) The Commissioner of State Lands may include rural fire department  
30 dues and fees owed on property that is redeemed or sold at auction or by  
31 negotiated sale if:

32 (1) The rural fire department fees or dues are included in the  
33 certification of delinquent property received by the county collector; or

34 (2) The county collector or the fire chief of a rural fire  
35 department certifies to the Commissioner of State Lands that the rural fire  
36 department dues and fees are delinquent.

1       (c) The Commissioner of State Lands:

2               (1) May include the amount of the delinquent rural fire  
 3 department dues and fees in the calculations used to determine the opening  
 4 bid price or the redemption amount to be paid by the owner;

5               (2) Shall keep a record of any fees and dues owed to each rural  
 6 fire department; and

7               (3) Shall distribute any rural fire department dues and fees  
 8 under § 26-37-205 when the Commissioner of State Lands is satisfied the sale  
 9 will not be challenged in an action concerning the validity of the  
 10 conveyance.

11       (d)(1) The Commissioner of State Lands may charge an administrative  
 12 fee of no more than fifty dollars (\$50.00) in addition to any other fees  
 13 allowed under this chapter.

14               (2) The purchaser of the property shall be responsible for  
 15 paying any fee imposed under subdivision (d)(1) of this section.

16       (e) Delinquent rural fire department dues and fees alone do not  
 17 constitute a tax delinquency under § 26-37-101.

18  
 19       SECTION 4. Arkansas Code § 26-37-201(b) and (c), concerning the  
 20 publication of notice of sale of tax-delinquent property, is amended to read  
 21 as follows:

22       (b) The notice shall:

23               (1) Contain the assessed value of the land;

24               (2) Contain the amount of taxes, interest, penalties, any  
 25 delinquent fire department dues and fees under § 26-37-110, and other costs  
 26 due on the land;

27               (3)(A) Contain the name of the owner, the legal description of  
 28 the land, and the parcel number of the land.

29               (B) A part or abbreviated legal description of the land  
 30 shall be sufficient in the notice if the name of the owner and parcel number  
 31 are listed;

32               (4) Contain a list of all interested parties; and

33               (5) Indicate that the land will be sold to the highest bidder if  
 34 the bid is ~~equal to~~ at least equal to the assessed value of the land as  
 35 certified to the Commissioner of State Lands.

36       (c) The highest bidder shall pay all taxes, interest, penalties, ~~and~~

1 other costs, and any delinquent fire department dues and fees under § 26-37-  
2 110.

3  
4 SECTION 5. Arkansas Code § 26-37-202(e)(1), concerning the procedure  
5 for selling tax-delinquent property, is amended to read as follows:

6 (e)(1) After a sale of the land by the Commissioner of State Lands,  
7 including a negotiated sale, the Commissioner of State Lands shall notify the  
8 owner and all interested parties of the right to redeem the land within  
9 thirty (30) days after the date of the sale paying all taxes, penalties,  
10 interest, delinquent fire department dues and fees under § 26-37-110, and  
11 costs due, including the cost of the notice.

12  
13 SECTION 6. Arkansas Code § 26-37-204(c), concerning the setting aside  
14 of a sale of tax-delinquent property, is amended to read as follows:

15 (c) ~~In cases where sales may be~~ If a sale is set aside by the  
16 Commissioner of State Lands or by legal action by the record owner or the  
17 heirs or assigns of the record owner, the record owner or the heirs or  
18 assigns of the record owner shall pay all back taxes, penalties, interest,  
19 delinquent fire department dues and fees under § 26-37-110, and costs charged  
20 against the land.

21  
22 SECTION 7. Arkansas Code § 26-37-204(g), concerning the setting aside  
23 of a sale of tax-delinquent property, is amended to read as follows:

24 (g) An owner or interested party shall tender a cashier's check or  
25 cash equal to the amount of all taxes, penalties, interest, delinquent fire  
26 department dues and fees under § 26-37-110, and costs charged against the  
27 tax-delinquent land:

28 (1) Into the registry of the court before filing a complaint to  
29 set aside a sale of the tax-delinquent land; or

30 (2) With the Commissioner of State Lands before asking the  
31 Commissioner of State Lands to set aside a sale of the tax-delinquent land.

32  
33 SECTION 8. Arkansas Code § 26-37-205(a)(3), concerning the  
34 distribution of funds derived from the sale of tax-delinquent property, is  
35 amended to read as follows:

36 (3)(A) Third, to each county an amount equal to the delinquent

1 personal property taxes and any delinquent fire department dues and fees  
 2 under § 26-37-110, plus penalty, of the owner or owners of the tax-delinquent  
 3 land as certified by the county collector, which amount shall be held in an  
 4 escrow fund administered by and remitted to the county after one (1) calendar  
 5 year of the receipt of the moneys by the Commissioner of State Lands.

6 (B) The Commissioner of State Lands shall review the  
 7 information provided by the county collector and any other interested party  
 8 to ascertain:

9 (i) Whether the personal property tax, delinquent  
 10 fire department dues and fees under § 26-37-110, and penalty qualifies to be  
 11 withheld from the tax-delinquent land sale proceeds; and

12 (ii) The amount of personal property tax, delinquent  
 13 fire department dues and fees under § 26-37-110, and penalty that qualifies  
 14 under this subdivision (a)(3) to be withheld.

15 (C) If the Commissioner of State Lands is required to make  
 16 a refund of the personal property taxes or fire department dues and fees  
 17 under § 26-37-110 withheld under subdivision (a)(3)(A) of this section to a  
 18 purchaser of tax-delinquent lands for any reason, the amount of the refund  
 19 shall be recovered by the Commissioner of State Lands from the county or  
 20 counties that originally received the proceeds ~~under this subdivision (a)(3)~~  
 21 ~~of this section~~ of the tax-delinquent land sale under this subdivision  
 22 (a)(3).

23 (D) The Commissioner of State Lands shall promulgate rules  
 24 and forms needed to administer this subdivision (a)(3).

25 (E) This section does not require the Commissioner of  
 26 State Lands to search county records to determine whether an owner of tax-  
 27 delinquent land owes delinquent personal property taxes.

28 (F) This section does not grant a county a right to a lien  
 29 against real property for the payment of delinquent personal property tax or  
 30 delinquent fire department dues and fees under § 26-37-110;

31  
 32 SECTION 9. Arkansas Code § 26-37-207 is amended to read as follows:

33 26-37-207. Invalid donation by state.

34 If the title of ~~any~~ a person holding lands by virtue of a donation deed  
 35 from the state ~~shall, for any cause, be~~ is determined to be invalid in ~~any~~ an  
 36 action brought by or against him or her ~~at law or in equity~~, then ~~such~~ the

donor, or his or her heirs, successors, and assigns, ~~shall be~~ are entitled, in addition to all other available remedies, to a lien upon the lands for the amount of the taxes, penalty, any delinquent fire department dues and fees under § 26-37-110, and costs for which the lands were originally forfeited and sold, plus all taxes on the lands ~~which~~ that have subsequently been paid by the purchaser, or his or her heirs, successors, and assigns, together with all taxes and improvement district assessments, including any fire department dues and fees under § 26-37-110, ~~which~~ that may have been paid on the lands following the donation, with interest on the amount paid for the lands and on the taxes and assessments from the respective dates of payment until repaid at the rate of six percent (6%) per annum. The court rendering judgment or decree against the validity of the donation shall declare and enforce the lien.

SECTION 10. Arkansas Code § 26-37-301(a)(1), concerning the notice to owners of the right to redeem tax-delinquent property, is amended to read as follows:

(a)(1) After receiving tax-delinquent land, the Commissioner of State Lands shall notify the owner, ~~at~~ by certified mail sent to the owner's last known address as certified by the county, ~~by certified mail~~, of the owner's right to redeem by paying all taxes, penalties, interest, fire department dues and fees under § 26-37-110, and costs, including the cost of the notice.

SECTION 11. Arkansas Code § 26-37-302(a), concerning the payment required to redeem tax-delinquent property, is amended to read as follows:

(a) To redeem tax-delinquent land with the county collector or the Commissioner of State Lands and to purchase tax-delinquent land at the Commissioner of State Land's sale, the redeemer or purchaser of tax-delinquent land shall pay all delinquent taxes, plus:

(1) Ten percent (10%) simple interest for each year of delinquency;

(2) A ten percent (10%) penalty for each year of the delinquency; ~~and~~

(3) The costs incurred by the county and the Commissioner of State Lands; and

(4) Any fire department dues and fees certified under § 26-37-

1 110.

2  
3 SECTION 12. Arkansas Code § 26-37-306(d)(1), concerning the procedure  
4 for redeeming tax-delinquent property by a person with a disability, is  
5 amended to read as follows:

6 (d)(1) If the Commissioner finds the facts ~~set forth~~ stated in the  
7 petition to be true, he or she shall cancel the forfeiture on his or her  
8 books and issue ~~his a~~ a certificate to the party redeeming the land or lot,  
9 ~~setting forth~~ stating the fact that the land or lot has been ~~duly and~~ legally  
10 redeemed by the payment of all taxes, penalties, fire department dues and  
11 fees under § 26-37-110, and costs due ~~thereon~~ on the land.

12  
13 SECTION 13. Arkansas Code § 26-37-309(a), concerning uncertified sales  
14 of tax-delinquent property to the state, is amended to read as follows:

15 (a) ~~Any land~~ Land sold to the state for the nonpayment of taxes since  
16 the year 1908 or thereafter, which sale has never been certified to the  
17 Commissioner of State Lands, may be redeemed by the person, firm, or  
18 corporation holding the lands under color of title by filing with the  
19 Commissioner a certificate from the clerk of the county in which the lands  
20 are situated, showing the sale of the land, the amount of taxes, penalty,  
21 fire department dues and fees under § 26-37-110, and cost due ~~thereon~~ on the  
22 land, if any, and the payment thereof and making a sworn statement in writing  
23 that he or she is the holder of the lands ~~as aforesaid~~ and is entitled to  
24 redeem them.

25  
26 SECTION 14. Arkansas Code § 26-37-315(b), concerning the redemption of  
27 a tax-delinquent homestead by a taxpayer, is amended to read as follows:

28 (b) If a taxpayer did not receive actual notice of the sale of his or  
29 her homestead by the Commissioner of State Lands or his or her designee by  
30 personal service of process at least sixty (60) days before the date of the  
31 sale, then the taxpayer may redeem the tax-delinquent land by tendering all  
32 taxes, penalties, interests, fire department dues and fees under § 26-37-110,  
33 and costs within thirty (30) days after the date of the sale.

34  
35 SECTION 15. Arkansas Code § 14-20-108(a)(1)(B)(i)(c)(2), concerning  
36 dues for volunteer fire departments, is amended to add an additional

subdivision to read as follows:

(C) The fire chief of a rural volunteer fire department may certify the amount of the delinquent fire department dues and fees to the Commissioner of State Lands for collection under § 26-37-110.

SECTION 16. Arkansas Code § 14-284-216, concerning failure to pay annual assessments by fire protection districts outside of cities or towns, is amended to add an additional subsection to read as follows:

(d) This section does not limit a county collector's right to certify delinquent rural fire department dues and fees to the Commissioner of State Lands under § 26-37-110.

SECTION 17. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that rural fire department dues and fees are critical to the operation of rural fire departments; that the nonpayment of rural fire department dues and fees places the lives and property of Arkansans in danger; that fire protection is a factor used to determine homeowners insurance rates; that the nonpayment of rural fire department dues and fees results in higher homeowners insurance premiums; and that this act is immediately necessary to benefit the economy of Arkansas and Arkansans and to protect the health and welfare of Arkansans. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.