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2 91st General Assembly
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4

As Engrossed: H3/14/17

A Bill

HOUSE BILL 2231

5 By: Representative Rushing
6

For An Act To Be Entitled

8 AN ACT TO REGULATE THE ADMINISTRATION OF REAL
9 PROPERTY OF THE STATE AND POLITICAL SUBDIVISIONS OF
10 THE STATE; AND FOR OTHER PURPOSES.
11

Subtitle

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13
14 TO REGULATE THE ADMINISTRATION OF REAL
15 PROPERTY OF THE STATE AND POLITICAL
16 SUBDIVISIONS OF THE STATE.
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18

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

21 *SECTION 1. Arkansas Code § 22-5-209 is amended to read as follows:*

22 *22-5-209. Deeds, abstracts, and contracts affecting state lands filed*
23 *in office of Commissioner of State Lands – Additional information – Failure*
24 *to comply.*

25 *(a) All deeds, abstracts, contracts, and other evidences of title to*
26 *realty belonging to the State of Arkansas shall be filed in the office of the*
27 *Commissioner of State Lands to be preserved by the Commissioner of State*
28 *Lands as ~~the~~ other public records and files of his or her office.*

29 *(b) Separately for each item of real property in the possession of a*
30 *state agency, the state agency shall maintain and furnish to the Commissioner*
31 *of State Lands a record containing:*

32 *(1)(A) The official recording information shown by the records*
33 *of the county recorder and the legal description of the real property.*

34 *(B) A copy of the most recent deed to the property may be*
35 *furnished to the Commissioner of State Lands if the copy contains the*
36 *official recording information and the legal description;*



1 (2) If the real property was purchased by a state agency, the
2 date of purchase and the purchase price;

3 (3) The name of the state agency holding title to the real
4 property for the state;

5 (4) A description of the current uses of the real property and
6 of the projected future uses of the real property; and

7 (5) A description of each building or other improvement located
8 on the real property.

9 (c) If the description of real property required under subsection (b)
10 of this section is excessively voluminous, the Commissioner of State Lands
11 may permit the state agency in possession of the real property to furnish the
12 description in summary form.

13 (d) Annually at the time established by the Commissioner of State
14 Lands, a state agency other than an institution of higher education shall
15 furnish the Arkansas History Commission with a photograph and identifying
16 information including the age of each building that:

17 (1) Is owned or controlled by the state agency and has become
18 forty-five (45) years old since the date the information was previously
19 submitted; or

20 (2) Was acquired by the agency after the date of the preceding
21 annual submission and is at least forty-five (45) years old on the date of
22 the current submission.

23 (e) Upon request, a state agency shall provide the Commissioner of
24 State Lands with a photograph and information furnished to the Arkansas
25 History Commission under subsection (d) of this section.

26 (f) If a state agency receives a proposal for the sale, transfer, or
27 exchange of real property that may benefit the state, the state agency shall
28 within fourteen (14) days and before accepting the proposal shall submit to
29 the Commissioner of State Lands:

30 (1) A summary of the proposal;

31 (2) An evaluation of the proposed real estate transaction
32 including an analysis of the anticipated costs, benefits, and detriments of
33 the proposal; and

34 (3) The state agency's recommendation and reasons for the
35 recommendation.

36 ~~(b)(g) In the event any state office, department, agency, or~~

~~institution fails or refuses to~~ If a state agency does not comply with ~~the~~
~~provisions of subsection (a) of this section,~~ the Commissioner of State Lands
shall report the failure ~~or refusal~~ to comply to the Governor, who shall
notify the administrative officer of the ~~office, department,~~ state agency, ~~or~~
~~institution~~ to immediately report to him or her the reasons for ~~his or her~~
the state agency's failure ~~or refusal~~ to comply.

~~(e)~~ (h) Willful failure ~~or refusal~~ to comply with this section by ~~any~~
~~officer~~ a public official shall constitute nonfeasance in office.

(i) As used in this section:

(1)(A) "State agency" means an instrumentality of state
government, including without limitation an office, a department, an agency,
a board, a commission, or an institution of the state.

(B) "State agency" does not include:

(i) The Arkansas State Highway and Transportation Department;

(ii) An institution of higher education;

(iii) The Arkansas Public Employees' Retirement
System;

(iv) The Arkansas Teacher Retirement System;

(v) The Arkansas State Game and Fish Commission; or

(vi) The Arkansas Department of Emergency
Management.

SECTION 2. Arkansas Code Title 22, Chapter 5, Subchapter 2, is amended
to add an additional section to read as follows:

22-5-210. Real property records of the Arkansas State Highway and
Transportation Department, institutions of higher education, the Arkansas
Public Employees' Retirement System, the Arkansas Teacher Retirement System,
and certain other properties.

(a) With respect to real property administered by the Arkansas State
Highway and Transportation Department, an institution of higher education,
the Arkansas Public Employees' Retirement System, and the Arkansas Teacher
Retirement System:

(1) The Arkansas State Highway and Transportation Department, an
institution of higher education, the Arkansas Public Employees' Retirement
System, and the Arkansas Teacher Retirement System shall each maintain
inventory records of the real property it owns or controls; and

1 (2) The Commissioner of State Lands may:

2 (A) Review, verify, and maintain inventory records of the
3 real property; and

4 (B) Prepare reports and make recommendations concerning
5 the best use of the real property.

6 (b) At the request of the Commissioner of State Lands:

7 (1) The Arkansas State Highway and Transportation Department
8 shall submit its real property inventory records that are not related to the
9 roadways and bridges it maintains; and

10 (2) No more than semiannually, the real property inventory
11 records of an institution of higher education, the Arkansas State Game and
12 Fish Commission, the Arkansas Public Employees' Retirement System, and the
13 Arkansas Teacher Retirement System, may be submitted to the Commissioner of
14 State Lands for information purposes only.

15 (c) The duties of the Commissioner of State Lands under this
16 subchapter and § 22-5-301 et seq. do not apply to:

17 (1) Real property that is owned by the state but is managed by
18 the United States Government;

19 (2) The real property composing the State Capitol Complex;

20 (3) The real property composing the Governor's Mansion;

21 (4) The real property composing the Arkansas State Veterans
22 Cemetery;

23 (5) Highway rights-of-way owned by the Arkansas State Highway
24 and Transportation Department;

25 (6) The real property composing the Old State House Museum; and

26 (7) The real property owned by the Arkansas Department of
27 Emergency Management.

28
29 *SECTION 3. Arkansas Code § 22-5-303 is amended to read as follows:*

30 *22-5-303. Additional duties of Commissioner of State Lands.*

31 *In addition to other duties and powers conferred by law upon the*
32 *Commissioner of State Lands, he or she shall ~~have the following duties and~~*
33 *~~powers:~~*

34 *(1) ~~To effectuate~~ Effectuate the policies and carry out the*
35 *purposes declared in § 22-5-301, ~~to carry out its purposes including~~ by*
36 *securing the cooperation and assistance of the United States Government and*

1 any of its agencies, and ~~to enter~~ entering into contracts, agreements, and
 2 conveyances necessary to secure ~~such~~ federal assistance;

3 (2) ~~To conduct~~ Conduct investigations, independently or jointly
 4 with other state and federal agencies, relating to conditions and factors
 5 affecting, and methods of accomplishing more effectively, the purposes of
 6 this subchapter; ~~and~~

7 (3) ~~To assign~~ Assign lands to the several state agencies for
 8 administration, subject to their agreement and acceptance;

9 (4) Review, compile, and maintain inventory records of the real
 10 property owned by the State of Arkansas based upon the information submitted
 11 under §§ 22-5-209 and 22-5-411, and the records in his or her office;

12 (5) Make recommendations and take appropriate action concerning
 13 the best use of land owned by the state and its political subdivisions; and

14 (6) Accept unsolicited proposals and may solicit proposals
 15 concerning real estate transactions that would benefit the state.

16
 17 SECTION 4. Arkansas Code § 22-5-305(b), concerning the membership of
 18 the State Land Use Committee, is amended to read as follows:

19 (b) The Commissioner of State Lands shall appoint one (1) member from
 20 each of the ~~seven (7)~~ four (4) congressional districts and ~~two (2)~~ five (5)
 21 members at large for a term of two (2) years.

22
 23 SECTION 5. Arkansas Code § 22-5-306 is amended to read as follows:
 24 22-5-306. Appraisers – Qualifications, oath, and bond.

25 (a) The Commissioner of State Lands ~~shall~~ may appoint ~~such~~ appraisers
 26 ~~as are provided for by any appropriation~~ to inspect and appraise state-owned
 27 lands for sale, transfer, or donation.

28 ~~(b) It shall be unlawful for the Commissioner of State Lands to~~
 29 ~~dispose of state-owned lands without an appraisal made by appraisers~~
 30 ~~appointed by the Commissioner of State Lands, except that he or she may sell~~
 31 ~~or dispose of town lots and acreage descriptions of ten (10) acres or less~~
 32 ~~without an appraisal.~~

33 ~~(e)~~(b) Each appraiser selected shall, by education or experience, be
 34 familiar with and know how to arrive at the value of lands, water rights,
 35 mineral rights, timber lands, rural lands, agricultural lands, and
 36 noncultivable lands; shall understand legal descriptions of real properties;

1 shall have a working knowledge of county and state real property records; and
2 shall be capable of passing dependable judgments upon the values of rural
3 properties.

4 ~~(d)~~(c) Upon entering the duties of his or her office, each appraiser
5 shall take an oath of office as prescribed in the Arkansas Constitution,
6 Article 19, § 20. This oath shall state that he or she will not, directly or
7 indirectly, be engaged in the purchase of state-owned lands during his or her
8 continuance in office and that he or she will not engage in any speculation
9 of state-owned lands or give information to any agent, friend, or secret or
10 other partner so as to secure the advantages of that information to himself
11 or herself or to any person, association, or company to the prejudice or
12 exclusion of other persons.

13 ~~(e)~~(d) Each appraiser shall enter into bond to the state in the sum of
14 one thousand dollars (\$1,000), to be furnished by a surety company authorized
15 to do business in the State of Arkansas, conditioned that he or she will
16 faithfully discharge all of his or her duties according to law and the rules
17 ~~and regulations~~ of the State Land Use Committee.

18 ~~(f)~~(e) After qualifying as provided in this section, each appraiser
19 shall perform his or her duties in the manner prescribed by the Commissioner
20 of State Lands.

21
22 SECTION 6. Arkansas Code § 22-5-307(b), concerning the disposition of
23 state lands, is amended to read as follows:

24 (b)(1) The Commissioner of State Lands shall dispose of the lands and
25 make deeds to the lands in accordance with ~~this~~ the classification under
26 subsection (a) of this section.

27 (2) Only With the approval of the Governor and review by the
28 General Assembly or the Legislative Council, lands classified as suitable for
29 return to private ownership ~~shall be subject to sale~~ may be sold under § 22-
30 5-312 and subsection (e) of this section to private ~~individuals~~ parties by
31 the Commissioner of State Lands.

32
33 SECTION 7. Arkansas Code § 22-5-307, concerning the disposition of
34 state lands, is amended to add an additional subsection to read as follows:

35 (h) Tax delinquent lands are not subject to the terms and restrictions
36 of this section and may be disposed of as required by law.

1
2 SECTION 8. Arkansas Code Title 22, Chapter 5, Subchapter 3, is amended
3 to add additional sections to read as follows:

4 22-5-312. Authority of Commissioner of State Lands, state agencies,
5 and political subdivisions to conduct certain real property transactions.

6 (a)(1) The Commissioner of State Lands may sell at auction or under
7 subdivision (a)(3) of this section land approved for return to private
8 ownership under § 22-5-307.

9 (2) The auction may be advertised and conducted at the same time
10 and in the same manner as tax delinquent lands under § 26-37-201 et seq.

11 (3) If the auction does not result in the sale of the land, the
12 Commissioner of State Lands may:

13 (A) Negotiate a private sale under the terms and
14 conditions of § 26-37-202; or

15 (B)(i) List the property for sale with a real estate
16 broker licensed under the Real Estate License Law, § 17-42-101 et seq.

17 (ii) The Commissioner of State Lands shall by rule
18 establish criteria to ensure the fair and impartial selection of the real
19 estate broker.

20 (b)(1) A state agency or political subdivision of the state may sell,
21 transfer, or exchange real property that it owns if the sale, transfer, or
22 exchange is for market value.

23 (2) The state agency or political subdivision of the state shall
24 notify the Commissioner of State Lands in writing and provide a copy of the
25 recorded deed or other instrument evidencing the sale, transfer, or exchange
26 within thirty (30) days of the sale, transfer, or exchange.

27
28 22-5-313. Reports and recommendations of Commissioner of State Lands.

29 (a) Except for real property excluded under § 22-5-210, separately or
30 with the assistance of the State Land Use Committee, the Commissioner of
31 State Lands shall report on and make recommendations concerning the real
32 property inventory of each state agency:

33 (1) At least one (1) time every four (4) years; and

34 (2) During the calendar year before a state agency is abolished
35 or otherwise discontinued.

36 (b) The report and recommendations shall:

1 (1) Determine the purpose for which the real property owned or
2 controlled by the state agency is currently being used and the plans for
3 future use by the state agency;

4 (2) Identify real property that is not being used or is being
5 substantially underused; and

6 (3) Include an analysis of:

7 (A) The highest and best use for the real property; and

8 (B) Alternative uses of the real property, including the
9 potential for:

10 (i) Leasing the real property for commercial or
11 agricultural uses; or

12 (ii) Any other real estate transaction or use that
13 may be in the best interest of the state.

14 (c) Upon request, a state agency shall provide the Commissioner of
15 State Lands within thirty (30) days of the request information to assist the
16 evaluation of a proposed use of real property, including without limitation:

17 (1) The status of the real property;

18 (2) Alternative uses of the property considered by the state
19 agency within the previous five (5) years;

20 (3) Proposals received within the previous five (5) years from
21 private parties concerning the real property; and

22 (4) Any plans to change the use or dispose of the real property.

23 (d) On or before July 1 annually, the Commissioner of State Lands
24 shall:

25 (1) Prepare a draft evaluation report containing its findings
26 and recommendations for at least twenty-five percent (25%) of the real
27 property owned by the state; and

28 (2) Submit the draft evaluation report to each state agency
29 named in the report and request the state agency's comments concerning the
30 findings and recommendations made by the Commissioner of State Lands.

31 (e)(1) On or before September 1 annually, the Commissioner of State
32 Lands shall submit to the Governot a final evaluation report containing the
33 findings and recommendations of the Commissioner of State Lands for at least
34 twenty-five percent (25%) of the real property owned by the state, the
35 Legislative Council, the Joint Budget Committee, and each state agency named
36 in the report.

1 (2) The final evaluation report shall include the comments and
2 recommendations received from a state agency named in the report concerning
3 the potential use of real property by the state agency or by another state
4 agency.

5 (f) The Commissioner of State Lands shall not recommend a real estate
6 transaction involving real property that is used for military purposes.

7 (g) If real property is identified in the final evaluation report as
8 not being used or as being substantially underused:

9 (1) A political subdivision of the state shall not annex the
10 real property without prior written approval of the Commissioner of State
11 Lands; and

12 (2) A state agency that owns or controls the real property shall
13 give the Commissioner of State Lands notice of at least thirty (30) days
14 before beginning a planned development, acquisition, disposition, lease,
15 sale, transfer, or exchange of the real property, including the planned
16 construction of new improvements or a major modification to an existing
17 improvement to the real property.

18
19 22-5-314. Disposition and reclassification of state lands.

20 (a) At any time after real property is listed in a final evaluation
21 report under § 22-5-313, the Commissioner of State Lands may recommend in
22 writing to the Governor that the real property be:

23 (1) Reclassified under § 22-5-307;

24 (2) Sold, transferred, exchanged, or leased; or

25 (3) Used for a different purpose or by a different state agency
26 or political subdivision.

27 (b)(1) The Commissioner of State Lands shall notify the state agency
28 that owns or controls real property of a recommendation concerning the real
29 property under subsection (a) of this section.

30 (2) The state agency may send the Governor comments or
31 objections to the recommendation within thirty (30) days.

32 (c) If the Commissioner of State Lands makes a recommendation to the
33 Governor concerning real property identified as not used or substantially
34 underused:

35 (1) The Commissioner of State Lands shall notify the Department
36 of Human Services and the Housing Division of the Arkansas Development

1 Finance Authority to inspect the real property within thirty (30) days and
2 identify any property suitable for affordable housing if the final evaluation
3 report indicates that the highest and best use of the real property is for
4 residential purposes;

5 (2)(A) The real property may be sold or leased, or an easement
6 on the property may be granted to the United States for the use and benefit
7 of the United States Armed Forces if after consultation with appropriate
8 military authorities the Governor or the Governor's designee determines that
9 the sale, lease, or easement would materially assist the military in
10 accomplishing its mission.

11 (B) A sale, lease, or easement under this subdivision
12 (c)(2) shall be at market value.

13 (C) The state shall retain all mineral rights to the real
14 property but may relinquish the right to use the surface estate to extract
15 minerals; and

16 (3) The real property shall not without the approval of the
17 Governor be developed, sold, or otherwise disposed of by the state agency
18 that owns or controls the real property before the earlier of:

19 (A) The date the Governor rejects a recommendation under
20 this section; or

21 (B) Two (2) years from the date the recommendation is
22 approved, unless extended by the Governor.

23 (d) To determine whether to reject a recommendation under this section
24 the Governor may:

25 (1)(A) Require a state agency to provide a general development
26 plan for future use of the real property and any other information about the
27 real property.

28 (B) The general development plan shall be submitted no
29 later than thirty (30) days before a recommendation under this section is
30 approved if not disapproved by the Governor; and

31 (2) Request that the state agency provide its general
32 development plan for future use of real property or any other information to
33 the Commissioner of State Lands for evaluation and may consult with the
34 Commissioner of State Lands.

35 (e) The Commissioner of State Lands may take all action necessary to
36 implement a recommendation unless the Governor gives the Commissioner of

1 State Lands written notice disapproving the recommendation within ninety (90)
2 days after receiving the written recommendation of the Commissioner of State
3 Lands.

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/s/Rushing