

State of Arkansas

76th General Assembly

Regular Session, 1987

AS ENGROSSED 3/5/87

HOUSE BILL 1761

By: Representatives Flanagan and McCuiston

AS ENGROSSED 4/7/87

"AN ACT TO AMEND SECTION 1 OF ACT 317 OF 1937, AS AMENDED,
[ARK. STAT. 7-105] TO CLARIFY THE PROCEDURE TO BE FOLLOWED IN
THE SALE OF STATE LAND; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 1 of Act 317 of 1937, as amended, the same being Arkansas Statute 7-105, is hereby amended to read as follows:

"Section 1. (a) The several state boards or commissions having supervision of the affairs of the charitable, penal, correctional, educational and other institutions of the State of Arkansas, and all other state boards and commissions, except the Arkansas Highway Commission, the Arkansas Game and Fish Commission, the Natural Heritage Commission, and the Arkansas Parks, Recreation and Travel Commission and the executive heads of all state offices, departments and agencies, all hereinafter referred to separately as state agency, are hereby each empowered from time to time to sell, for cash in hand, and upon compliance with the provisions of this act, the lands, in whole or in part, belonging to, or under the supervision or control of, the respective said state agency, or belonging to the State and held for the use or benefit of the state agency. State agencies are hereby empowered to transfer lands in whole or in part to the State Building Services for use of that agency or other State agencies. In the event the State Building Services shall sell such lands at a later date, the provisions of this Act shall apply and the proceeds of such sale, less any expenses and liquidated damages, shall be deposited in the State Treasury as a non-revenue receipt, to the credit of the fund from which the agency that transferred the land to the State Building Services is operated.

(b) In the event a State agency elects to sell certain of its land, the agency shall certify to the State Building Services its proposal for any such

sale. The Director of State Building Services shall obtain the services of a qualified appraiser to appraise the lands so proposed to be sold, with notice to the agency.

(c) The appraiser selected by the Director of State Building Services, shall, by education or experience, be capable of determining the value of lands, water and mineral rights, timber, rural, agricultural and non-cultivateable lands, shall understand legal descriptions of real properties, shall have a working knowledge of county and State real property records, and shall be capable of rendering dependable judgements of the values of properties.. The appraiser should be a certified member of the American Institute of Real Estate Appraisers. The appraiser shall take an oath that he will not directly or indirectly, be engaged in the purchase of the land, or give information to any agent, friend, or secret or other partner, so as to secure advantages of such information to himself or any person, association or company, to the prejudice or exclusion of other person.

(d) The Director of State Building Services, shall furnish the appraisal, the agency proposal to sell, and State Building Services recommendations to the Governor. The Governor, if he approves the proposed sale, shall endorse his approval of the proposal and transmit a copy of the proposal to the Construction Administrator of State Building Services. The Construction Administrator of State Building Services shall give notice of the terms of the sale by publication in one (1) newspaper regularly published in Little Rock, Arkansas, and having a general circulation in the State of Arkansas, by four (4) weekly insertions therein, and if there is a newspaper published in the county in which the lands are located having a general circulation therein, the notice shall also be published in such newspaper once a week for four (4) consecutive weeks, provided such land may be advertised for sale as a whole or in separate tracts. The notice shall specify a time and place, which time shall be not less than thirty (30) days from and after the date of the first insertion of the notice for the receipt by State Building Services of sealed bids for the purchase of the lands. Each bid shall be accompanied by the bidder's check, payable to the order of the state agency and drawn upon and certified by a bank or trust company doing business in this State, in an amount equal to one-tenth (1/10) of the bid. The proceeds of the check of the successful bidder shall be credited against the bid upon payment of the balance or shall be retained by the state agency as liquidated damages upon

failure to tender and pay the balance of the bid price. Checks of unsuccessful bidders shall be returned to them upon the completion of the sale to the successful bidder. State Building Services shall, at the time and place specified in the notice, or by announcement then and there, or at some other time or place, open the bids which have been received and proceed to accept the highest bid properly accompanied by check for the lands in whole or in part as offered for such sale. The lands shall be sold for the highest aggregate bid and no such sale shall be otherwise than for cash, nor for less than the amount of the appraisal.

(e) Upon receipt from the successful bidder of the full amount of his bid, the said state agency shall execute and deliver its deed conveying the said lands to him, and shall certify a copy of such deed shall recite in this act which recitals shall be prima facie evidence of the facts so set forth. The said deed need not be acknowledged to entitle it to record. Provided that if any agreement for the sale of any lands by the State or any of its institutions by the Board of Trustees has been made previous to this act, it will not be necessary for notice of publication, appraisal or bidding of such lands to be made as above mentioned; but in all events the sale of such lands shall require the Governor's approval and the title to such lands shall be vested in the grantee upon such approval, and payment to the Board of Trustees or such other state agent as may be authorized to receive payment for such conveyances.

(f) The effect of the said deed, the provisions of this act having been substantially complied with in the said sale, shall be to vest the said purchaser with the title of the said lands, at law and in equity, in fee simple absolute.

(g) The proceeds of the said sale, including any liquidated damages as aforesaid, shall, upon receipt thereof, be deposited in the State Treasury, as a nonrevenue receipt, to the credit of the fund from which the said state agency is operated.

(h) The provisions of this Act shall not apply to the sale of land by the Commissioner of State Lands."

SECTION 2. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 3. EMERGENCY. It is hereby found and declared that the confusion that now exists on a large scale concerning the handling of the Sale of Land, to the detriment of the taxing agencies and the public; that the clarification made by this act is immediately needed to eliminate said confusion and any resulting harmful effects on the public peace, health, safety and welfare. By reason thereof, an emergency is declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall take effect and be in force and after its passage and approval.

/s/ Pat Flanagan

