

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

As Engrossed: S3/28/11

# A Bill

SENATE BILL 551

5 By: Senator Salmon  
6

## For An Act To Be Entitled

8 AN ACT TO OBTAIN ACCURATE LEGAL  
9 DESCRIPTIONS OF TAX-DELINQUENT AND OTHER  
10 LANDS; TO REGULATE THE SALE AND  
11 REDEMPTION OF TAX-DELINQUENT LANDS; AND  
12 FOR OTHER PURPOSES.  
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## Subtitle

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15 TO OBTAIN ACCURATE LEGAL DESCRIPTIONS OF  
16 TAX-DELINQUENT AND OTHER LANDS; AND TO  
17 REGULATE THE SALE AND REDEMPTION OF TAX-  
18 DELINQUENT LANDS.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 SECTION 1. Arkansas Code § 26-26-717 is amended to read as follows:

25 26-26-717. Accurate description of all tracts required.

26 (a)(1)(A) ~~It shall be the duty of each A county assessor to make out,~~  
27 shall assemble from ~~such~~ all available sources of information ~~as shall be in~~  
28 ~~his power,~~ a correct and ~~pertinent~~ description of each tract or lot of real  
29 property in ~~his~~ the county, ~~so that it can be identified and distinguished~~  
30 sufficient to identify and distinguish the tract or lot from any other  
31 tracts, lots, or parts of tracts or lots.

32 (B) The county assessor shall place a value on each  
33 subdivision of a block, and the improvements ~~thereon~~ on each subdivision of a  
34 block, in cities, ~~and~~ towns, ~~or~~ and additions ~~thereto~~ to cities and towns,  
35 notwithstanding the fact that one (1) individual owns the whole block.

36 (2)(A) When the county assessor ~~shall deem~~ considers it



1 necessary to obtain an accurate description of ~~any separate~~ a tract or lot in  
 2 his the county, he may require the county assessor shall:

3 (i) Make written demand upon the owner or occupier  
 4 occupant of the tract or lot to furnish it the county assessor with any title  
 5 papers or surveys that he the owner or occupant may have has in his or her  
 6 possession; and

7 (ii) Include in the demand notice that the failure  
 8 of the owner or occupant to comply with the demand may result in the county  
 9 assessor's employment of the county surveyor or a licensed surveyor to  
 10 prepare a description of the tract or lot at the expense of the owner or  
 11 occupant, and the expense shall be added to the tax assessed upon the tract  
 12 or lot.

13 (B)(i) If the owner or occupier, upon demand made for it,  
 14 shall neglect or refuse to furnish a satisfactory description of the parcel  
 15 of real property to the assessor occupant fails or refuses to comply with  
 16 subdivision (a)(2) of this section, he the county assessor may employ the  
 17 county surveyor or a licensed surveyor to make out prepare a description of  
 18 the boundaries, and location thereof, and a statement of the quantity of land  
 19 therein within the tract or lot.

20 (ii) The expense of the survey under subdivision  
 21 (a)(2)(B)(i) of this section shall be returned by the county assessor to the  
 22 clerk of the county court, who shall add the expense of the survey to the tax  
 23 assessed upon the real property tract or lot, and it the expense of the  
 24 survey shall be collected by the county collector of the county with the tax.  
 25 When collected, it the expense of the survey shall be paid on demand to the  
 26 person to whom it is due.

27 (b)(1) The assessor shall, in all cases, from actual view or from the  
 28 best sources of information within his reach, determine, as near as  
 29 practicable, From an actual view of the tract or lot or from the best sources  
 30 available to the county assessor, the county assessor shall determine as near  
 31 as practicable the true value of each separate tract and or lot of real  
 32 property in his the county assessor's county, according to the rules  
 33 prescribed by this chapter for valuing property.

34 (2) The assessor shall note in his plat book, separately, the  
 35 value of all houses, mills, and other buildings which shall be carried out as  
 36 a part of the value of the tracts. The county assessor shall note separately

1 in his or her plat book the value of all houses, mills, and other buildings  
2 and shall include the value of a house, mill, or other building as a part of  
3 the value of the tract or lot upon which the house, mill, or other building  
4 sits.

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6 SECTION 2. Arkansas Code § 26-26-720 is amended to read as follows:

7 26-26-720. Correcting descriptions already on books.

8 (a)(1) The Commissioner of State Lands with the approval of the  
9 Attorney General is authorized to have corrected any part description of  
10 lands on the books of the Commissioner of State Lands in the manner provided.  
11 This authority shall be exercised upon the application of any applicant to  
12 purchase or upon application by may correct a partial or incomplete  
13 description of tax-delinquent land on the books of the Commissioner of State  
14 of Lands.

15 (2) Upon application by an applicant to purchase tax-delinquent  
16 land, the Department of Parks and Tourism, the Arkansas Forestry Commission,  
17 or the Arkansas State Game & and Fish Commission, or the Attorney General,  
18 the Commissioner of State Lands shall correct a partial or incomplete  
19 description of tax-delinquent land on the books of the Commissioner of State  
20 Lands.

21 (b) The Commissioner of State Lands shall notify the owner of the tax-  
22 delinquent land and all interested parties as defined in § 26-37-301 of the  
23 correction of a description of tax-delinquent land before the sale of the  
24 tax-delinquent land.

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26 SECTION 3. Arkansas Code § 26-37-203 is amended to read as follows:

27 26-37-203. Conveyance to purchaser – Contest.

28 (a)(1) If the tax-delinquent land is not redeemed within the thirty-  
29 day period provided by § 26-37-202, the Commissioner of State Lands shall  
30 issue convey the tax-delinquent land by issuing a limited warranty deed to  
31 the tax-delinquent land, subject to the right of cancellation under  
32 subdivision (e)(1) of this section.

33 (2)(A) To obtain the limited warranty deed from the Commissioner  
34 of State Lands, the successful bidder or the successful purchaser by  
35 negotiated sale under § 26-37-202 of tax-delinquent land shall provide the  
36 Commissioner of State Lands a sworn statement evidencing proof of service in

1 the manner provided by Rule 4 of the Arkansas Rules of Civil Procedure  
 2 reflecting that notice of the purchase by the successful bidder or successful  
 3 purchaser has been given by:

4 (i) Actual notice to each person or entity in  
 5 possession of any part of the tax-delinquent land; and

6 (ii) Any form of service to each owner or interested  
 7 party as defined by § 26-37-301.

8 (B) Proof of compliance with subdivision (a)(2) of this  
 9 section shall be by:

10 (i) An affidavit of service evidencing compliance  
 11 with Rule 4 of the Arkansas Rules of Civil Procedure for each party  
 12 identified in subdivision (a)(2)(A) of this section; and

13 (ii) For each person or entity provided actual  
 14 notice under subdivision (a)(2)(A)(i) of this section, an additional sworn  
 15 statement containing:

16 (a) The name of the person or entity;

17 (b) The resident or business address of the  
 18 person or entity;

19 (c) The address where notice was given;

20 (d) To whom the notice was given; and

21 (e) A description of the possessory interest  
 22 of the person or entity in the tax-delinquent land.

23 (b)(1) Except as provided in ~~subdivisions~~ subdivision (b)(2) and (3)  
 24 of this section, ~~all actions~~ an action to contest the validity of ~~the a~~  
 25 conveyance ~~under this section or a negotiated sale under § 26-37-202~~ shall be  
 26 brought ~~is barred if not commenced~~ within ~~one (1) year~~ fifteen (15) years  
 27 after the date of the conveyance or negotiated sale ~~thereafter be barred.~~

28 (2) A cause of action by a person suffering a disability due to  
 29 mental incapacity, a minor, or a person serving in the United States armed  
 30 forces ~~during time of war~~ in active duty during the ~~two-year~~ fifteen-year  
 31 period under subdivision (b)(1) of this section ~~shall be brought~~ is barred if  
 32 not commenced within two (2) years after the disability is removed, the  
 33 minor reaches majority, or the person is released from active duty with the  
 34 United States armed forces.

35 ~~(3) An action to challenge the conveyance to a purchaser of land~~  
 36 ~~that was sold at a negotiated sale under § 26-37-101 shall be brought within~~

1 ~~ninety (90) days after the date of the conveyance or thereafter be barred.~~

2 (c)(1) No Except as provided in subdivision (c)(2) of this section, a  
3 deed issued after January 1, 1987, by the Commissioner of State Lands shall  
4 be is not void or voidable on the ground that the county did not strictly  
5 comply with the laws governing tax-delinquent land if prior to the issuance  
6 of before issuing the deed the Commissioner of State Lands complied with the  
7 laws governing the disposition of tax-delinquent land.

8 (2) A court may set aside a deed issued by the Commissioner of  
9 State Lands if the county assessor failed to strictly comply with §§ 26-26-  
10 717 and 26-26-719.

11 ~~Nothing in this section shall~~ This section does not prevent any a  
12 taxpayer from attacking contesting the validity of a deed issued by the  
13 Commissioner of State Lands on the ground that taxes have actually been paid.

14 (e)(1) A taxpayer or interested party as defined in § 26-37-301 may  
15 obtain the cancellation of a limited warranty deed issued under this section  
16 by filing suit within the time specified in subsection (b) of this section  
17 and depositing into the registry of the court cash or a cashier's check in  
18 the sum determined by the court to equal:

19 (A) The full amount of the consideration paid for the tax-  
20 delinquent land with compound interest at the rate of six percent (6%) per  
21 annum; and

22 (B) A cancellation fee of twenty percent (20%) of the  
23 principal amount of the consideration paid by the purchaser of the tax-  
24 delinquent land.

25 (2) In an action under this subsection the:

26 (A) Actions of the Commissioner of State Lands are not  
27 relevant to the determination of the action; and

28 (B) Commissioner of State Lands:

29 (i) Is immune from liability or suit for his or her  
30 actions concerning the tax-delinquent lands; and

31 (ii) May not be made a party without his or her  
32 consent.

33 (3) The final order of the court cancelling the limited warranty  
34 deed shall direct the court clerk to pay all money deposited into the  
35 registry of the court under this subsection by the taxpayer or interested  
36 party as defined in § 26-37-301 to the purchaser of the tax-delinquent land.

1       (f)(1) Upon delivering a certified copy of the final order cancelling  
2 the limited warranty deed and paying a reasonable administrative fee not to  
3 exceed one hundred dollars (\$100) to the Commissioner of State Lands, the  
4 Commissioner of State Lands shall execute and deliver a redemption deed for  
5 the tax-delinquent land to the taxpayer or interested party as defined in §  
6 26-37-301.

7       (2) The Commissioner of State Lands shall establish the amount  
8 of the administrative fee under subdivision (f)(1) of this section.

9       (g) A right to redeem or to obtain the cancellation of a limited  
10 warranty deed granted by this section may be extinguished by a decree  
11 quieting title to the lands under § 26-38-201 et seq. or otherwise only after  
12 the time to exercise the right to redeem or to obtain the cancellation of a  
13 limited warranty deed granted by this section has expired.

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15       SECTION 4. Arkansas Code § 18-12-609 is amended to read as follows:  
16       18-12-609. Marketability of real property sold at tax sales.

17       (a) The title to any real property located within the State of  
18 Arkansas based upon a deed resulting from a delinquent tax sale is marketable  
19 if:

20               (1) The tax deed has been of record for more than fifteen (15)  
21 years;

22               (2) Any taxes due have been paid by the tax deed grantee or the  
23 heirs or successors of the tax deed grantee for more than fifteen (15) years;

24               (3) ~~No~~ A claim of adverse possession of the real property has  
25 not been asserted or filed of record since the recording of the tax deed; and

26               (4) The taxes for which the tax deed was issued had not been  
27 paid before the tax deed was executed and delivered to the tax deed grantee.

28       (b) This section ~~shall not be~~ is not subject to the additional time to  
29 challenge a tax deed given to minors, persons suffering a mental incapacity,  
30 or persons serving in the United States armed forces ~~during a time of war in~~  
31 active duty under § 26-37-203(b).

32       (c) ~~Nothing in this section shall~~ This section does not preclude a  
33 judicial action to quiet the title to ~~any~~ real property located within this  
34 state subject to the rights of an owner or interested party under § 26-37-203  
35 after a forfeiture and conveyance of tax-delinquent real property prior to  
36 before the time that the title to the real property is considered marketable

1 under subsection (a) of this section.

2 (d) This section shall not apply to a tax sale of a severed mineral  
3 interest.

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5 SECTION 5. Arkansas Code § 26-38-206 is amended to read as follows:  
6 26-38-206. Effect of the decree of confirmation.

7 ~~(a)~~ Except as provided in § 26-37-203:

8 (1) The decree of the ~~chancery~~ circuit court confirming the  
9 forfeiture and conveyance to the ~~state~~ plaintiff under § 26-38-202 ~~of real~~  
10 ~~property shall operate, except only as expressly provided in this section;~~

11 (A) ~~as~~ As a complete bar, ~~both~~ at law and in equity,  
12 ~~against any and~~ of a claim or defense of all persons, firms, corporations,  
13 quasi-corporations, associations, trustees, and holders of beneficial  
14 interests ~~who may hereafter assert or defend claims to the~~ title of the real  
15 property; and

16 (B) ~~as a vesting of~~ To vest the complete and ~~indefensible~~  
17 indefeasible title to the real property in the ~~state~~ plaintiff under § 26-38-  
18 202 and ~~its~~ the plaintiff's grantees in fee simple, free and clear of all  
19 ~~such~~ claims.

20 ~~(b)~~ ~~It shall so operate,~~ regardless of whether or not ~~such~~ the  
21 forfeiture and conveyance ~~may have been~~ is void or voidable because of  
22 ~~defects or irregularities occurring~~ a defect or irregularity in the  
23 proceedings ~~therefor,~~ to forfeit and convey the real property; and

24 ~~(c)(1)~~ ~~All parties shall have the right to appeal any decree of~~  
25 ~~confirmation pursuant to the Arkansas Rules of Civil Procedure.~~

26 (2)(A) ~~Any~~ The claim of a person, firm, corporation, quasi-  
27 corporation, association, trustee, or holder of a beneficial interest ~~whose~~  
28 with a properly recorded interest in the real property ~~is properly recorded~~  
29 ~~but who~~ that is not properly served notice of the confirmation proceedings  
30 ~~shall have~~ under this subchapter is barred if not commenced within one (1)  
31 year from ~~and after rendition to attack the~~ date the decree ~~insofar as it~~  
32 ~~relates to his real property~~ is entered.

33 (B) ~~All attacks upon the decree made after the one (1)~~  
34 ~~year period shall be taken to be collateral attacks and shall be wholly~~  
35 ~~ineffectual.~~

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1 SECTION 6. Arkansas Code § 26-38-209 is amended to read as follows:  
2 26-38-209. Application.

3 ~~The provisions of this subchapter are applicable to~~ This subchapter:

4 (1) Applies to all forfeitures and conveyances to the state or  
5 from the state whether ~~such~~ or not the forfeiture or conveyance occurred  
6 before or after March 23, 1993; and

7 (2) Is subject to the right to redeem or to obtain the  
8 cancellation of a limited warranty deed granted by § 26-37-203.

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10 /s/Salmon  
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