

1 State of Arkansas  
2 92nd General Assembly  
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4  
5 By: Senator B. Ballinger

# A Bill

SENATE BILL 457

## 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.

## Subtitle

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

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

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) ~~In the event any state office, department, agency, or institution~~  
30 ~~fails or refuses to~~ Separately for each item of real property in the  
31 possession of a state agency, the state agency shall maintain and furnish to  
32 the Commissioner of State Lands a record containing:

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

35 (B) A copy of the most recent deed to the real property  
36 may be furnished to the Commissioner of State Lands if the copy contains the



1 official recording information and the legal description;

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

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

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

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

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

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

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

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

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

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

31 (1) A summary of the proposal;

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

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

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

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

9 (i)(1) As used in this section, "state agency" means an  
10 instrumentality of state government, including without limitation an office,  
11 a department, an agency, a board, a commission, or an institution of the  
12 state.

13 (2) As used in this section, "state agency" does not include:

- 14 (A) The Arkansas Department of Transportation Department;
- 15 (B) An institution of higher education;
- 16 (C) The Arkansas Public Employees' Retirement System;
- 17 (D) The Arkansas Teacher Retirement System;
- 18 (E) The Arkansas State Game and Fish Commission; or
- 19 (F) The Arkansas Department of Emergency Management.

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

23 22-5-210. Real property records of the Arkansas Department of  
24 Transportation Department, institutions of higher education, Arkansas Public  
25 Employee's Retirement System, Arkansas Teacher Retirement System, and certain  
26 other properties.

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

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

35 (2) The commissioner of State Lands may:

- 36 (A) Review, verify, and maintain inventory records of the

1 real property; and

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

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

5 (1) The Arkansas Department of Transportation shall submit its  
 6 real property inventory records that are not related to the roadways and  
 7 bridges it maintains; and

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

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

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

17 (2) The real property composing the State Capitol complex;

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

19 (4) The real property composing the state veteran's cemetery  
 20 system;

21 (5) Highway rights-of-way owned by the Arkansas Department of  
 22 Transportation;

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

24 (7) The real property owned by the Arkansas Department of  
 25 Emergency Management.

26  
 27 SECTION 3. Arkansas Code § 22-5-303 is amended to read as follows:

28 22-5-303. Additional duties of Commissioner of State Lands.

29 (a) In addition to other duties and powers conferred by law upon the  
 30 Commissioner of State Lands, he or she shall ~~have the following duties and~~  
 31 ~~powers:~~

32 (1) ~~To effectuate~~ Effectuate the policies and carry out the  
 33 purposes declared in § 22-5-301, ~~to carry out its purposes including~~ by  
 34 securing the cooperation and assistance of the United States Government and  
 35 any of its agencies, and ~~to enter~~ entering into contracts, agreements, and  
 36 conveyances necessary to secure such federal assistance;

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

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

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

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

12           (6) Accept unsolicited proposals.

13           (b) The Commissioner of State Lands may solicit proposals concerning  
 14 real estate transactions that would benefit the state.

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

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

21  
 22           SECTION 5. Arkansas Code § 22-5-306 is amended to read as follows:

23           22-5-306. Appraisers – Qualifications, oath, and bond.

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

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

32           ~~(c)~~ Each appraiser selected shall, by education or experience, be  
 33 familiar with and know how to arrive at the value of lands, water rights,  
 34 mineral rights, timber lands, rural lands, agricultural lands, and  
 35 noncultivable lands; shall understand legal descriptions of real properties;  
 36 shall have a working knowledge of county and state real property records; and

1 shall be capable of passing dependable judgments upon the values of rural  
2 properties.

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

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

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

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

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

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

32 SECTION 7. Arkansas Code § 22-5-307 is amended to add an additional  
33 subsection to read as follows:

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

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

3 22-5-312. Authority of Commissioner of State Lands, state agencies,  
4 and political subdivisions to conduct certain real property transactions.

5 (a)(1) The Commissioner of State Lands may sell at auction or under  
6 subdivision (a)(3) of this section land classified as land that should be  
7 returned to private ownership under § 22-5-307.

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

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

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

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

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

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

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

26  
27 22-5-313. Reports and recommendations of Commissioner of State Lands.

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

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

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

35 (b) The report and recommendations shall:

36 (1) Determine the purpose for which the real property owned or

1 controlled by the state agency is currently being used and the plans for  
2 future use by the state agency;

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

5 (3) Include an analysis of:

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

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

9 (i) Lease of the real property for commercial or  
10 agricultural uses; or

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

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

16 (1) The status of the real property;

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

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

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

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

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

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

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

36 (2) The final evaluation report shall include the comments and



1 recommendations received from a state agency named in the final evaluation  
2 report concerning the potential use of real property by the state agency or  
3 by another state agency.

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

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

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

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

17  
18 22-5-314. Disposition and reclassification of state lands.

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

22 (1) Reclassified under § 22-5-307;

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

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

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

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

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

34 (1) The Commissioner of State Lands shall notify the Department  
35 of Human Services and the Housing Division of the Arkansas Development  
36 Finance Authority to inspect the real property within thirty (30) days and

1 identify any property suitable for affordable housing if the final evaluation  
2 report indicates that the highest and best use of the real property is for  
3 residential purposes;

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

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

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

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

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

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

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

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

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

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

34 (e) The Commissioner of State Lands may take all action necessary to  
35 implement a recommendation unless the Governor gives the Commissioner of  
36 State Lands written notice disapproving the recommendation within ninety (90)

1 days after receiving the written recommendation of the Commissioner of State  
2 Lands.

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