

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

# A Bill

SENATE BILL 597

4  
5 By: Senator J. Dismang

## For An Act To Be Entitled

8 AN ACT TO CLARIFY THE PROCEDURE FOR QUIETING TITLE TO  
9 LANDS FORFEITED TO THE STATE OF ARKANSAS FOR  
10 NONPAYMENT OF TAXES; AND FOR OTHER PURPOSES.

## Subtitle

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14 TO CLARIFY THE PROCEDURE FOR QUIETING  
15 TITLE TO LANDS FORFEITED TO THE STATE OF  
16 ARKANSAS FOR NONPAYMENT OF TAXES.

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

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21 SECTION 1. Arkansas Code § 26-38-201 is amended to read as follows:  
22 26-38-201. Suit to confirm title to land in state.

23 (a) ~~Whenever any~~ If real property, ~~sectional or town or city lots,~~ has  
24 been forfeited to the State of Arkansas and conveyed by certification to the  
25 Commissioner of State Lands for the nonpayment of taxes, the state or the  
26 purchaser, donee, or redeмпtor of the real property may file a suit for  
27 confirmation of title in the ~~chancery circuit court wherein~~ of the county  
28 where the real property lies, requesting that the title to the real property  
29 be confirmed and quieted in the State of Arkansas, in care of the  
30 Commissioner of State Lands, or in the purchaser, donee, or redeмпtor of the  
31 real property in fee simple.

32 (b) (1) Suit to confirm title ~~by the state in the State of Arkansas or~~  
33 in a purchaser, donee, or redeмпtor may be filed at any time ~~subsequent to~~  
34 after the conveyance by certification.

35 (2) ~~Further, the~~ The state may elect to file for confirmation  
36 ~~subsequent to~~ after conveyance from the state to ~~any a~~ a purchaser, donee, or



1 redeemptor.

2           (3) ~~In the event~~ If confirmation is filed ~~following~~ after a  
3 conveyance from the state, the decree of confirmation ~~shall inure~~ inures to  
4 the benefit of the purchaser, donee, or redeemptor of the ~~lands~~ real property.

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6           SECTION 2. Arkansas Code § 26-38-202 is amended to read as follows:

7           26-38-202. ~~Petition~~ Complaint.

8           (a) The Commissioner of State Lands, on behalf of the State of  
9 Arkansas, or the purchaser, donee, or redeemptor of the real property from the  
10 state, shall file in the office of the clerk of the circuit court of the  
11 county in which the forfeited real property is situated a ~~petition~~ complaint  
12 requesting that title be quieted and confirmed ~~in~~ to the real property  
13 described in the ~~petition~~ complaint.

14           (b)(1) The ~~petition~~ plaintiff shall ~~have~~ attach to the complaint a  
15 certified list ~~attached to it,~~ from the Commissioner of State Lands  
16 describing the real property and containing the years and the amounts for  
17 which ~~each parcel~~ the real property was forfeited.

18           (2) A purchaser, donee, or redeemptor of real property from the  
19 state shall attach to the complaint a copy of the limited warranty deed or  
20 other documentation evidencing the transfer of the real property from the  
21 state to the purchaser, donee, or redeemptor.

22           (c) The ~~petition~~ complaint may include as many parcels of ~~land~~ real  
23 property as the Commissioner of State Lands or the purchaser, donee, or  
24 redeemptor of real property from the state deems proper, so long as all  
25 parcels lie within the county.

26           (d)(1) The certified list ~~shall be~~ is all the proof that ~~shall be~~ is  
27 required to show prima facie title in the state.

28           (2) A limited warranty deed or a donation deed is all the proof  
29 that is required to show prima facie title in a purchaser, donee, or  
30 redeemptor.

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32           SECTION 3. Arkansas Code § 26-38-203 is amended to read as follows:

33           26-38-203. Publication of notice.

34           (a) Upon ~~the filing of the petition,~~ there shall be published a  
35 complaint under § 26-38-202, the plaintiff shall publish for four (4)  
36 consecutive weeks, ~~one~~ one (1) time per week, in a newspaper having general

1 circulation in the county wherein the real property is located, a notice  
2 calling on all persons, firms, corporations, or improvement districts who can  
3 set up any right to the real property so conveyed and forfeited to show cause  
4 why the title to the real property should not be confirmed, quieted, and  
5 vested in the ~~State of Arkansas~~ plaintiff in fee simple.

6 (b)(1) The notice shall set forth the description of the real property  
7 and the name of the person, firm, or corporation that last paying paid the  
8 taxes on the real property thereon.

9 (2) A partial or abbreviated legal description is sufficient in  
10 the notice if the name of the person, firm, or corporation that last paid the  
11 taxes on the real property and parcel number are listed.

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13 SECTION 4. Arkansas Code § 26-38-204 is amended to read as follows:

14 26-38-204. ~~Parties~~ Additional parties to suit ~~- Decree.~~

15 (a) ~~Any~~ A person, firm, corporation, or improvement district claiming  
16 ~~any an~~ an interest in ~~any a~~ a parcel of real property adverse to the ~~state~~  
17 plaintiff under § 26-38-202 shall ~~have the right to join or be made a party~~  
18 ~~to a suit, and, if made a party, the claims of any such person, firm,~~  
19 ~~corporation, or improvement district shall be~~ and shall have the interest  
20 adjudicated in a suit under this subchapter.

21 (b) If ~~any~~ a person, firm, corporation, or improvement district ~~sets~~  
22 ~~up the defense~~ claims that the conveyance of real property to the ~~state~~  
23 plaintiff was void ~~for any cause~~, the person, firm, corporation, or  
24 improvement district shall tender to the clerk of the court the amount of  
25 taxes, penalties, interest, and costs due and owing on the ~~parcel~~ real  
26 property.

27 (c)(1) ~~In case any~~ If the person, firm, corporation, or improvement  
28 district ~~so~~ made a party defendant to the proceeding, ~~as provided in~~ under  
29 ~~this section, shall establish a valid defense,~~ establishes a superior claim  
30 to all or part of the real property, a the decree of the court shall:

31 (A) ~~be~~ Be rendered in favor of the party defendant, with  
32 respect to the ~~parcel so~~ affected, ~~and~~ real property;

33 (B) ~~the decree shall order~~ Order the defendant to pay all  
34 taxes, penalties, interest, and costs due on the ~~parcel,~~ affected real  
35 property;

36 (C) ~~Thereafter,~~ Order the Commissioner of State Lands

1 ~~shall~~ to issue a deed of redemption to the party defendant for the affected  
 2 real property; and

3 (D) Set aside the transfer from the state to the  
 4 purchaser, donee, or redemtor of the affected real property.

5 (2) ~~In the event~~ If the party defendant fails to establish a  
 6 valid defense, an order so stating will be entered, and the party defendant  
 7 will be allowed to recover the funds tendered to the clerk ~~pursuant to~~ under  
 8 subsection (b) of this section.

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 10 SECTION 5. Arkansas Code § 26-38-206 is amended to read as  
 11 follows:

12 26-38-206. Effect of the decree of confirmation.

13 (a) ~~The~~ Except as provided in this section and § 26-37-203, the decree  
 14 of the ~~chancery~~ circuit court confirming the forfeiture and conveyance to the  
 15 ~~state~~ plaintiff under § 26-38-202 of real property shall operate, ~~except only~~  
 16 ~~as expressly provided in this section,;~~

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

21 (2) ~~as a vesting of~~ To vest the complete and ~~indefensible~~  
 22 indefeasible title to the real property in the ~~state~~ plaintiff under § 26-38-  
 23 202 and its ~~the~~ plaintiff's grantees in fee simple, free and clear of all  
 24 ~~such~~ claims.

25 (b) ~~It shall so operate,~~ regardless of whether ~~such~~ the forfeiture and  
 26 conveyance ~~may have been~~ is void or voidable because of ~~defects or~~  
 27 ~~irregularities occurring~~ a defect or irregularity in the proceedings ~~therefor~~  
 28 to forfeit and convey the real property.

29 (c) ~~(1)(b)~~ All parties ~~shall~~ have the right to appeal ~~any~~ a decree of  
 30 confirmation under this subchapter pursuant to the Arkansas Rules of Civil  
 31 Procedure.

32 (2)(A)(c) ~~Any~~ The claim of a person, firm, corporation, quasi-  
 33 corporation, association, trustee, or holder of a beneficial interest ~~whose~~  
 34 with a properly recorded interest in the real property ~~is properly recorded~~  
 35 ~~but who~~ that is not properly served notice of the confirmation proceedings  
 36 ~~shall have~~ under this subchapter is barred if not commenced within one (1)

1 year from ~~and after rendition to attack~~ the date the decree ~~insofar as it~~  
2 ~~relates to his real property~~ is entered.

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

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