

# Commissioner of State Lands

State of Arkansas

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Tommy Land, Commissioner



Rules 2019 Edition

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## *Title I: General Information*

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### **SUBTITLE A | AUTHORITY AND PURPOSE**

The authority for these Rules (“Rules”) is power given to the Commissioner of State Lands for the State of Arkansas by Act 626 of 1983, as amended, and other applicable laws.

The counties in Arkansas certify tax-delinquent property to the Commissioner of State Lands (the “Commissioner”). Upon certification, legal title to the property vests in the State of Arkansas in the care of the Commissioner, although the Commissioner does not take physical possession of it. During the time that property is held by the State, the Commissioner does not enter upon the property and has no duty to maintain it.

The Commissioner is charged with either collecting taxes on the properties or, if the delinquent taxes are not paid in full before the date set for sale, selling the property. The Commissioner offers the property for sale at a public auction that is usually held in the county in which the property is located. If the property does not sell, then the Commissioner offers the property for sale at ongoing Post-Auction Sales beginning thirty (30) days after the date of the public auction.

The purpose of these Rules is to carry out the provisions of Act 626 of 1983, as amended. Pursuant to section 7 of Act 626 of 1983, as amended, these rules shall have the full force and effect of law.

### **SUBTITLE B | SCOPE**

These Rules, having been promulgated and adopted by the Commissioner, shall be in full force and effect until they are amended or repealed pursuant to law. All previous Rules adopted and published by the Commissioner are hereby superseded and repealed insofar as they may be different from or in conflict with the Rules herein.

Except where specifically noted, these Rules apply to all categories of sales held by the Commissioner. Rules not applying to all categories of sales will be found under one of the more specific Titles that follow. These Rules should be regarded as being supplementary to, and not in replacement of and in compliance with, the laws of this State relating to the matters covered by these Rules.

Nothing in these Rules shall apply to the sale of tax-delinquent land that has been or will be certified to the Commissioner for tax years prior to 1978.

### **SUBTITLE C | SEVERABILITY**

It is intended that these Rules are severable and that if any of these Rules, or any parts thereof, shall be declared invalid, all other unaffected Rules, or parts thereof, shall remain in full force and effect.

### **SUBTITLE D | DEFINITIONS**

The following definitions are applicable to all Rules:

**Bid**- An offer to purchase a property made by a prospective buyer, whether in person or via mail.

**Certification**- The process by which each county certifies a list of tax delinquent real property parcels to the State of Arkansas in the care of the Commissioner on a yearly basis.

**Certified Funds**- Payment that is guaranteed to clear or settle by a bank or business, including without limitation a credit card, debit card, electronic check, escrow check, money order, cashier's check, or certified bank check.

**Costs**- Actual costs expended by the Commissioner of State Lands.

**Excess Proceeds**- Money received from a Bid or sale that is in excess of the taxes, fees, penalties, interest, and costs due on the property at the time of sale, as well as any fees due after the sale.

**Homestead**- A parcel of tax-delinquent land certified to the Commissioner of State Lands that has been designated by the county assessor as a homestead eligible for a homestead credit under [§ 26-26-1118](#), and has been properly claimed as a homestead by the owner.

**Interested Party**- Any person, firm, corporation, partnership, or other legal entity holding title to or an interest in the tax-delinquent land by virtue of a recorded instrument at the time of Certification. Mere notice of a sale by mail or publication does not convey legal status to the named entity or individual that it is an "interested party" as defined under the statutes or these Rules.

**Limited Warranty Deed**- A unique deed generated by the Commissioner of State Lands that conveys a limited interest in a property in exchange for the purchaser paying the accepted Bid amount for the property. In most instances a Limited Warranty Deed is used by a purchaser to quiet title to the property and receive full marketable title in fee simple from a court.

**Litigation Period**- The maximum time after the sale of a tax-delinquent property that legal proceedings based on that sale may be initiated by statute.

**Notice of Sale**- Notification sent to the Owner or other Interested Parties as identified by the Commissioner of State Lands, as having a potential interest in a tax-delinquent property that alerts the recipient that the State is going to take an action that will deny the recipient of any rights they may have in the property, unless they take immediate action to pay the taxes, penalties, interest, fees, and costs. Notice is also provided by publication in a newspaper having general circulation in the county where the land is located.

**Owner**- Any person, firm, corporation, partnership, or other legal entity holding title to or an interest in the tax-delinquent land by virtue of a recorded instrument at the time of Certification. Mere notice of a sale by mail or publication does not convey legal status to the named entity or individual that it is an "owner" as defined under the statutes or these Rules.

**Post-Auction Sale**- A sale consisting of Bids placed through the mail or in person on a tax-delinquent property that was previously offered at a Public Auction but not sold. Post-auction property is sold on a first come, first serve basis. Unlike a Public Auction, a Post-Auction Sale is initiated solely by an offer being made on the unsold property.

**Public Auction**- An auction for the sale of tax-delinquent property where bidders are physically assembled and Bids accepted. Public Auctions may include Bids made through the mail, as well as Bids made by those present. Public Auctions are usually held in the county in which the land is located.

**Redemption/Redeem**- After a sale by public auction or post-auction sale, a parcel may be redeemed as set forth in these rules. A parcel may also be redeemed at any time after Certification and prior to sale. Upon Redemption, a Redemption Deed will be issued and filed with the county.

**Redemption Deed**- Upon Redemption of property as set forth by the statutes and herein, the Commissioner shall issue a redemption deed. Issuance of a redemption deed does not convey any title in or establish ownership of the person in whose name the deed is issued. The deed serves as proof that payment has been received by the Commissioner of State Lands, and does not convey or change the legal ownership to the property redeemed. The deed shows that the state's interest is extinguished by the Redemption.

**Taxes**- As used herein, the use of the term "taxes" shall include any and all taxes, penalties, interest, fees, and costs whatsoever due and owing on the property. Any amounts owing continue to accrue additional taxes, penalties, interest, fees, and costs until such time as the property is either sold or Redeemed.

#### **SUBTITLE E | LAND OFFERED FOR SALE**

All land offered for sale by the Commissioner has been certified to the State by the county in which the land is located for non-payment of real-property taxes, penalties, interest, fees, and costs. The sale date shall be no earlier than one (1) year after the tax-delinquent land is certified to the Commissioner.

The property being offered is identified by legal description, lot and block number, or metes and bounds, as well as by parcel number, all as certified by the county. Further, the property is not identified by physical address.

A list of tax delinquent real properties being offered for sale will be available at the Public Auction or through the Commissioner's website, <http://www.cosl.org/>. A list of Post-Auction Sale properties available for sale will be available through the Commissioner's website. Lists of both Public Auction and Post-Auction Sale properties are subject to change at any time.

All liens and encumbrances are not necessarily extinguished by tax sales. Offered parcels may be subject to liens, easements, building or use restrictions, or governmental interests. The parcels remain subject to the lien of taxes for the preceding calendar year that are not yet due and payable, which may be owed to the county collector.

The Commissioner makes no covenant, representation, or warranty as to the physical or environmental condition of the property. Successful purchasers acquire the property, both surface rights and mineral rights, if not previously separated, in the condition (including environmental condition) existing at the time of sale "as is" with all defects, if any.

*It is the responsibility of all prospective purchasers to do their own research as to the use of the land for their intended purpose and to exercise due diligence in researching the property.*

While the Commissioner attempts to convey correct and accurate information, it is the duty of the prospective purchaser to verify all information and consult with legal or real estate experts before bidding. Any photos, maps, or other information provided through the Commissioner's office or website may not accurately show the property in question, and the Commissioner makes no guarantees that such information is correct or accurate and disclaims any warranties, either express or implied, or representation with respect to any parcels of land offered for sale. Further, the Commissioner does not guarantee the usability of, access to, or suitability for a particular purpose of any of these lands, including availability of services to the property. This includes information found on the Commissioner's website, information obtained through a link from the Commissioner's website, and comments or statements made by employees of the Commissioner. The information provided in the website and by the Commissioner's office is for general guidance only and is not intended to constitute legal advice.

#### **SUBTITLE F | PRE-SALE NOTICE**

Certain information must be included in pre-sale notices published in newspapers and pre-sale notices sent by mail. Failure to include certain information required by statute may invalidate a sale of the land. Only an Owner or Interested Party may challenge the validity of a notice to substantially comply with the notice statutes. The required contents of notices follow.

##### **I. Notice of Sale by Publication**

- (a) A notice of sale will be published by the Commissioner in a newspaper having general circulation in the county where the land is located.
- (b) In most cases, the sale will take place in the county where the land is located.
- (c) The published notice shall contain the following:
  - (1) The assessed value of the land;
  - (2) The amount of taxes, penalties, interest, fees, and the costs of the sale;
  - (3) The name of the Owner;
  - (4) A list of all Interested Parties as identified by the Commissioner;
  - (5) The legal description and parcel number identifying the land: a partial or abbreviated legal description shall be sufficient in the notice if the name of the Owner and parcel number are listed;
  - (6) A deadline at which time Bids must be delivered and payment in full must be received from the purchasers; and
  - (7) The land will be sold to the highest bidder provided the Bid is equal to the taxes, penalties, interest, fees, and costs owed on the land.

(d) Being listed in a public notice does not convey status to an individual or entity determining that it is an Owner or Interested Party.

(e) Other information may be included in the notice of sale if it is in the best interest of the State to do so.

2. Notice of Sale by Mail

(a) A notice of sale will be sent by certified mail to the following:

(1) The Owner at the Owner's last known address as certified by the county.

(2) All Interested Parties and any person who may be otherwise known to the Commissioner as having a potential interest. Mere notice of sale does not convey legal status to the recipient that it is an "interested party" as defined under the statutes or these Rules.

(3) Sending or receipt of notice of sale does not convey status to an individual or entity determining that it is an Owner or Interested Party.

(b) The Commissioner shall not be required to send notice by certified mail or any other means to a person, firm, corporation, partnership, or other legal entity whose title to or interest in the tax-delinquent land is:

(1) Obtained after Certification to the Commissioner; or

(2) Expired, barred, released, or otherwise terminated before the date of sale regardless of whether a bona fide recorded instrument reflects the termination of the title or interest.

(c) If notice by certified mail is returned unclaimed or refused, notice will be sent by regular mail.

(d) If notice is returned undelivered for any other reason, notice will be sent to the Owner or Interested Party at any additional address reasonably identifiable through the examination of the real-property records properly filed and recorded in the office of the county recorder where the land is located as follows:

(1) The address shown on the deed to the Owner;

(2) The address shown on the deed, mortgage, assignment, or other filed and recorded document to the Interested Party; or

(3) Any other corrected or forwarding address on file with the county collector or county assessor.

(e) The notice by mail will also contain the following;

(1) A partial or abbreviated legal description and the parcel number;

(2) A statement that the land will be sold if not redeemed prior to the date of sale;  
and

(3) The sale date.

3. Notice on Homesteads

In the instance of a tax-delinquent parcel that has been claimed as a Homestead and designated as a Homestead by the county assessor under Arkansas law, the Commissioner shall send notice through a process server at least sixty (60) days before the sale, if notice has not been received by certified mail. When a Homestead is owned by a husband and wife as tenants by the entirety, notice to one spouse suffices.

#### SUBTITLE G | POST-SALE NOTICE

After any sale, whether at Public Auction or Post-Auction Sale, notice of the sale must be sent as follows:

1. The Commissioner must notify the Owner and Interested Parties of the right to redeem the property within ten (10) business days after the date of sale by paying the amount of taxes, penalties, interest, fees, and other costs due on the property, including the cost of notice.

2. This notice must be sent by regular mail to the last-known address of the Owner and any Interested Parties.

3. If the property is not redeemed within this Redemption period, a Limited Warranty Deed will be issued.

#### SUBTITLE H | TITLE BEING CONVEYED

The Commissioner will issue a Limited Warranty Deed conveying to the purchaser all rights, title, and interest received by the State in the tax-delinquent property through tax forfeiture. This deed is limited in nature and often requires subsequent legal action by the buyer to obtain full marketable title. The Commissioner does not warrant that the title it conveys is free of defect or other fault. The buyer is responsible for conducting all research regarding the parcel, including, but not limited to, consulting with private legal counsel and/or a licensed abstractor and performing a title search before bidding. The Commissioner or his employees cannot give legal advice to the public.

Title insurance companies may or may not issue title insurance on properties purchased at these sales, and the Commissioner makes no representation as to the availability of title insurance on these properties. The unavailability of title insurance is not grounds for cancelling a sale or other re-conveyance to the State.

#### SUBTITLE I | REDEMPTION OF TAX-DELINQUENT PROPERTY

1. Until tax-delinquent property is sold or disposed of by the State, a person who wishes to redeem the property shall submit the following to the Commissioner:

- (a) A petition to redeem the property that may be obtained by request through the Commissioner's website, <http://www.cosl.org/>, or by contacting the Commissioner's office;
  - (b) A sum of money equal to the amount of outstanding taxes, penalties, interest, fees, and costs due and owing at the time the petition is received by the Commissioner's office; and
  - (c) Such other documentation that the Commissioner may require.
2. The petition to redeem shall be executed with a verified signature.
3. The total amount due on a petition to redeem is valid for thirty (30) days from the date requested, unless the property has been sold, the records have been amended by a county, or additional costs, fees or taxes accrued. The amount is subject to increase within this thirty (30) day period if actual costs, fees, and taxes are added. If the petition date has expired or additional costs have accrued, an updated petition to redeem must be requested.
4. Petitions and payments must be received in the Commissioner's office prior to the petition's expiration date or prior to the expiration of the Redemption period, whichever is earlier. Postmarks will not be accepted. To avoid the sale of the property, a properly completed, up to date, petition to redeem with all required documentation must be timely submitted, along with full payment of the past due amount. Deadlines are strictly enforced.
5. Partial payments will not be accepted. Meeting part of any of the Redemption requirements will not result in redeeming the property. Incomplete or incorrect petitions to redeem will be returned and will not extend the Redemption period.
6. If payment is tendered thirty (30) days prior to or ten (10) days following the sale date, payment must be made in cash or Certified Funds.
7. If tax-delinquent property is sold at public auction or post-auction sale, anyone wishing to redeem the property has ten (10) business days, business days do not include weekends or nationally recognized holidays, the calculation of which begins the day after the date of the sale, during which to redeem the property.
8. Upon Redemption, a Redemption Deed will be issued by the Commissioner and filed with the county. If the parcel has sold and is not redeemed, a Limited Warranty Deed to the purchaser will be issued. If the parcel did not sell, it will remain on the records accruing additional taxes, penalties, interest, fees, and costs and will be subject to Post-Auction Sale.

#### **SUBTITLE J | TERMS OF SALE**

1. The full purchase price is equal to the highest amount Bid.
2. Successful bidders at Public Auction must tender the full purchase price at the time of the sale. Failure to do so may result in a prohibition on bidding in any or all future land sales.
3. Bids by mail must include the full purchase price. **DO NOT SEND CASH BY MAIL.**



4. When purchased at the Public Auction, the first one hundred dollars (\$100.00) of each parcel purchased must be paid in cash or Certified Funds, with the balance payable by personal check or debit or credit card. No deed will be issued until clearance is assured by the bank or lending institution on which such checks are drawn. Payment by credit or debit card may be subject to a non-refundable processing fee charged by the issuing credit card company.
5. All Certified Funds and personal checks should be made payable to the “Commissioner of State Lands.”
6. No purchase may be made on a time-payment plan. It is the bidder’s responsibility to already have acceptable funds available for payment.
7. Upon payment of the full purchase price, the successful bidder will receive a certificate of purchase from the Commissioner.
8. Owners, their agents, or assigns and other Interested Parties have ten (10) business days from the date of the sale to redeem the property.
9. In the event of Redemption, the purchaser at the sale will receive a full refund, no interest accruing.
10. If no Redemption occurs, the purchaser will receive a Limited Warranty Deed from the Commissioner.
11. The Commissioner reserves the right to cancel any sale.

#### SUBTITLE K | PENALTIES

1. The cash amount tendered on the day of the sale will be forfeited by the successful bidder in the event the check used to pay the balance is returned for insufficient funds or for any other reason deemed to be in conflict with these Rules or the law.
2. Pursuant to the provisions of Ark. Code Ann. §§ 5-37-301 through 307, “The Arkansas Hot Check Law,” the maker of checks returned to the Commissioner for insufficient funds may be prosecuted.
3. The Commissioner reserves the right to exclude any individual, partnership, corporation, or other legal entity from the bidding process for failure to abide by these Rules or for failure to carry on business in good faith.

#### SUBTITLE L | LEGAL ACTION AGAINST THE CONVEYANCE

1. The time period during which legal action must be commenced is as follows:
  - (a) Actions to contest the validity of the deeds issued subsequent to August 16, 2013, the effective date of Act 1231 of 2013, must be filed within ninety (90) days after the date of conveyance. The statute may be further amended to either lengthen or shorten the litigation period, and these Rules shall at all times be read to reflect the version of Ark. Code Ann. § 26-37-203 applicable at the time of sale of the property being litigated.

(b) Act 1231 of 2013 amended Arkansas Code § 26-37-203 to a ninety (90) day litigation period. Previous versions of this statute allowed for a one (1) or two (2) year litigation period. The litigation period of any parcel purchased from the Commissioner of State Lands should be determined by consultation with private legal counsel.

(c) Any purchaser taking action or expending money with respect to the property, prior to the expiration of the ninety (90) day litigation period, does so at their own risk. Any funds spent during this period may not be recoverable in the event of a successful challenge.

2. If the sale is set aside by legal action or if the land is proven to be non-existent or double assessed, the purchaser shall be entitled to a reimbursement of money paid to the Commissioner, interest not accruing thereon.

3. If the sale is set aside by the Commissioner, the purchaser may be entitled to a reimbursement of money paid to the Commissioner, interest not accruing thereon.

#### SUBTITLE M | FEES

1. The Commissioner of State Lands shall collect the following fees:

- (a) Emerged Land Deeds issued pursuant to §§ 22-5-404, 22-5-405 ..... \$ 5.00
- (b) Deeds to 16th section school lands under § 22-5-407 ..... 5.00
- (d) Quitclaim deed of mineral interest under § 22-6-502 ..... 5.00
- (f) Issuance of duplicate deeds and patents under § 22-6-104 ..... 5.00
- (g) Issuance of original patents under § 22-6-105 ..... 5.00
- (h) Redemption deeds issued under § 26-37-310 ..... 5.00
- (j) Issuance of sale deeds ..... 5.00
- (k) Double entry statements ..... 3.00
- (l) Disclaimers ..... 3.00
- (m) For each page of field notes issued by the office of the Commissioner of State Lands ..... .50
- (n) A fee of five dollars (\$5.00) plus actual cost for each General Land Office plat copied and distributed.

(2) The Commissioner of State Lands shall charge a collection fee of twenty-five dollars (\$25.00) against all tax delinquent land redeemed or sold by the Commissioner of State Lands, except the fees charged for the redemption of severed mineral interests shall not include the twenty-five-dollar collection fee.

(3) For each certificate of donation to forfeited lands issued by the Commissioner of State Lands, there shall be paid a fee of ten dollars (\$10.00).

(4) For each donation deed issued by the Commissioner of State Lands, there shall be paid a fee of one dollar (\$1.00).

(5) The fee for each required publication of delinquent real property tax lists shall be one dollar and fifty cents (\$1.50) per tract per insertion.

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*Title 2: Sales at Public Auction*

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**SUBTITLE A | REGISTRATION**

Registration will take place prior to the time of sale as specified in the notice. No Bids will be accepted unless the bidder has registered and received a pre-numbered bid card. Bidders may be required to show a photo identification.

**SUBTITLE B | BIDDING AT PUBLIC AUCTION**

1. Bidding at Public Auction:

- (a) Subject to proper registration as outlined in Subtitle A of this section, Bids may be made at the Public Auction on the day of the sale.
- (b) Each parcel of land will be offered and in the order appearing on the bid list.
- (c) An oral Bid accepted at Public Auction is a legal and binding contract to purchase. By registering to Bid, a bidder consents to abide by these rules. Any failure to abide by these rules, the terms of the sale, or a failure to make payment as required may result in the bidder being barred or excluded from future auctions and may result in legal action against the bidder to enforce the terms of sale.

2. Bidding by Mail

- (a) Bids by mail must be received by the Commissioner, along with payment in full of the amount Bid, no later than seven (7) days prior to the published date of the public sale. The first one hundred dollars (\$100) must be paid by certified funds and the remaining balance can be paid by check.
- (b) Bids received by the Commissioner by mail prior to the sale date will be announced immediately preceding the Public Auction of the parcel.
- (c) Unsuccessful mail-in Bid amounts will be returned.

3. Who May Bid

(a) Any person, corporation, association, other legal entity, or agent thereof may Bid on the properties offered, except that the following may not Bid or purchase property through a tax sale, whether directly or indirectly:

- (1) The Commissioner and his or her employees; and
- (2) The county collector or his or her deputy.
- (3) A former Owner or Interested Party.

(b) Persons or entities that have won previous auctions and did not pay may be prohibited from bidding. Any persons or entities that have won previous auctions and submitted payment via a check with insufficient funds may be prohibited from bidding or may be required to pay in Certified Funds if permitted to Bid.

4. Bidding at Public Auction in General

(a) When bidding on property at a Public Auction, the following procedures apply:

- (1) The minimum Bid amounts are shown on the list. The minimum Bid amount is equal to the delinquent taxes, penalties, interest, fees, and costs as calculated by the Commissioner and based upon Certification by the county.
- (2) Each sale will be made to the highest responsible bidder for not less than the minimum Bid amount.
- (3) Successful bidders at the auction will receive certificates of purchase for payments made.

(b) The Commissioner reserves the right to reject any or all Bids.

### SUBTITLE C | PAYMENT AND ISSUANCE OF LIMITED WARRANTY DEED

Payment of the full purchase price is due upon the acceptance of the Bid by the Commissioner. Acceptable payment methods include: personal check, Certified Funds, or, if paying in person, cash or credit or debit card. Payments made with insufficient funds will cancel the sale, and forfeit the payment of one hundred dollars (\$100) in cash or Certified Funds of each parcel purchased. Additionally, the purchaser may no longer be allowed to purchase properties from the Commissioner.

If property has not been redeemed by the tenth (10<sup>th</sup>) business day after full payment of the Bid amount was received, the Commissioner shall issue a Limited Warranty Deed in the name of the successful bidder.

### SUBTITLE D | ANNOUNCEMENTS AT PUBLIC AUCTION

Any formal announcements made by the auctioneer on the day of the sale take precedence over previously published or verbally conveyed terms and conditions. Answering questions or making comments does not constitute a formal or public announcement.

Listing a property in the sale catalog does not guarantee availability on the day of Public Auction. Parcels may be redeemed prior to the auction date or otherwise removed from the auction list at the Commissioner's discretion. A list of parcels stricken from the sale catalog will be posted or announced at the auction.

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## Title 3: Post-Auction Sales

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### SUBTITLE A | WHEN A PARCEL BECOMES ELIGIBLE FOR POST-AUCTION SALE

Thirty (30) days following the initial Public Auction, all parcels not sold at the Public Auction shall be placed on the Post-Auction Sales list maintained by the Commissioner. This list shall be placed on the Commissioner of State Lands' website, <http://www.cosl.org/>, or will be provided via the U.S. Postal Service upon receipt of costs incurred for copying.

Listing a property on the Post-Auction Sales list does not guarantee availability on the date a Bid is received. Parcels may be sold, redeemed, or otherwise removed from the auction list at the Commissioner's discretion. The Commissioner has no liability for parcels that appear on the Post-Auction Sales list that are subsequently not available. Time is of the essence in making offers on available Post-Auction Sale properties.

### SUBTITLE B | OFFER FORMS

Offer forms for Post-Auction Sale properties shall not be provided to the public until the parcel is added to the Post-Auction Sales list.

When a parcel is placed on the Post-Auction Sales list, offer forms may be obtained by requesting them over the telephone, via email, in person, or online. The offer form shall be good for thirty (30) days from the day it is printed, unless otherwise indicated on the offer form. In all instances, the offer form shall only be good until the date indicated on the form.

### SUBTITLE C | POST-AUCTION BIDDING

Potential purchasers should carefully research the properties they intend to purchase prior to requesting forms or submitting payment. An offer shall be considered a binding offer to purchase and shall obligate the potential purchaser to the terms and conditions listed on the offer form. **Deadlines are strictly enforced.**

Any person, corporation, association, other legal entity, or agent thereof may Bid on the properties offered, except that the following may not Bid or purchase property through a tax sale, whether directly or indirectly:

1. The Commissioner and his or her employees;
2. The county collector or his or her deputy; and
3. A former Owner or Interested Party.

Any persons or entities that have won previous auctions and submitted payment via a check with insufficient funds or otherwise failed to pay may be prohibited from bidding or may be required to pay in Certified Funds if permitted to Bid.

Except as set forth in Subtitle F of this Title, Post-Auction Sales properties are available for sale by submitting all delinquent taxes, fees, penalties, interest, and costs due, along with a completed

valid offer to purchase form from the Commissioner's office. Properties are offered on a first come, first serve basis; however, additional competitive bidding may be required to complete a sale if two (2) or more qualifying offers arrive on the same day.

Bids are submitted along with payment by mail or in person to the Commissioner. Payments on offers received within the first two (2) years following the date of the Public Auction must at least be the amount of taxes, penalty, interest and costs due as shown on the offer to purchase form. Payment must match the amount bid. Payments made two (2) years or more following the date of the Public Auction must match the amount Bid. The statute and notes establishing this two (2) year period may be further amended to either lengthen or shorten the period, and these Rules shall at all times be read to reflect the version of Ark. Code Ann. § 26-37-101 and the following notes applicable at the time of sale of the property.

Once the Commissioner receives all forms and proper payment for a parcel on the Post-Auction Sales list, the parcel is removed from the Post-Auction Sales list. No additional offer forms may be accepted after that day. Postmarks are not taken into consideration when determining the date of an offer. **Actual receipt** of the offer forms and payment is required.

Purchasers can expect the Post-Auction Sale process to require a minimum of sixty (60) days to complete. This period can be broken down to the following three (3) distinct periods starting once an offer is received:

1. A minimum of ten (10) business days are reserved for offer acceptance and notice preparation. This initial notice is considered pre-sale notice and is sent by certified mail.
2. Thirty (30) calendar days are reserved for delivery and notification. The expiration of this period is deemed the sale date.
3. The post-sale notice is then sent by regular mail. Ten (10) business days are prescribed for the Redemption period following the sale date stated in the notice letter.

The Commissioner reserves the right to reject any or all offers.

The Commissioner of State Lands shall submit quarterly reports to the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, listing all tax-delinquent land sold at a post-auction private sale.

#### **SUBTITLE D | COMPETITIVE BIDDING**

If two (2) or more qualifying offer to purchase forms are submitted with payment for an active parcel on the same day, the Commissioner will hold all offers and payments. The Commissioner will notify all qualifying purchasers by regular mail that additional bidding will be required, and the property will be awarded to the highest bidder. An additional offer form will be provided by mail, and purchasers must respond within ten (10) business days of the notification of the requirement for additional bidding. The offer must include the revised offer to purchase form and matching additional funds. Postmarks will not be accepted. Payments and forms must be in our



office, as deadlines are strictly enforced. The sale date will be set thirty (30) days from the acceptance of the highest offer, and the ten (10) business day period for Redemption shall follow.

#### **SUBTITLE E | NOTICE OF POST-AUCTION SALES**

When an offer is accepted, the Commissioner shall send notice to the Owner and Interested Parties by certified mail and regular mail in the manner prescribed in Subtitle C above.

#### **SUBTITLE F | POST-AUCTION SALES AFTER MORE THAN TWO YEARS**

No offer for an amount less than all taxes, fees, penalties, interest, and costs shall be considered during the initial two (2) year offering date. In sales that occur when more than two (2) years have elapsed from the date the property was originally offered at Public Auction, the Commissioner may consider offers for less than the amount of taxes, fees, penalties, interest, and costs. The Commissioner may accept offers that more accurately reflect the actual value of the property. To make certain that the amount received for the property is in line with the potential value of the property, the Commissioner may do additional research. The sale can be at any price the Commissioner determines to be in the best interest of the State and its local taxing units.

If an offer is deemed “unreasonable,” the Commissioner may immediately reject the offer and leave the property available to all bidders. If considered but not accepted, the Commissioner may counter-offer by mail with an acceptable Bid. In this case, the parcel will be set as “Pending Sale” and removed from the list. If the purchaser agrees to the counter-offer, the purchaser must submit payment to the Commissioner within the ten (10) business days of the Commissioner’s counter-offer. Submissions received after this date will not be accepted, and the parcel will once again be made available on our Post-Auction Sales list. The same time periods for notice and Redemption as set forth in subtitle C of this title apply.

#### **SUBTITLE G | PAYMENT AND ISSUANCE OF LIMITED WARRANTY DEED**

Payment must accompany a valid offer to purchase form and match the total amount Bid. Acceptable payment methods include: personal check, Certified Funds, or, if paying in person, cash or credit or debit card. Payments made with insufficient funds will cancel the sale, and the purchaser may no longer be allowed to purchase properties from the Commissioner.

If property has not been redeemed by the tenth (10<sup>th</sup>) business day, the Commissioner shall issue a Limited Warranty Deed in the name of the successful bidder.

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#### *Title 4: Excess Proceeds*

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Any money collected through the sale of tax-delinquent property that is above the amount of the taxes, fees, penalties, interest, and costs due at the time of sale shall be deemed Excess Proceeds. Such Excess Proceeds shall be distributed upon application according to statute, and any remainder shall be held in trust by the Commissioner for the former Owner.

#### **SUBTITLE A | ORDER OF DISTRIBUTION**

1. Within one (1) calendar year of the receipt of the Excess Proceeds by the Commissioner, the funds shall be distributed as follows:

- (a) To the Commissioner to pay penalties, collection fees, sale costs, and other costs as may be provided by law; and
- (b) To the county to pay the delinquent taxes, interest, and costs.

2. The remaining Excess Proceeds shall be held for one (1) year following the date of the Limited Warranty Deed. After the one-year period has expired, upon submission and approval of the application from the relevant governmental entity, the Excess Proceeds are distributed as follows:

- (a) To the county to satisfy delinquent personal property taxes and penalties;
- (b) To the Department of Finance and Administration to satisfy delinquent taxes, penalties, and interest for which certificates of indebtedness have been filed;
- (c) To the county to satisfy delinquent solid waste assessments, plus penalty and interest;
- (d) In the event the Commissioner is required to make a refund to the purchaser of the property for the taxes or assessments withheld pursuant to this subsection, the amount of the refund shall be recovered by the Commissioner from the county, counties, or department that originally received the proceeds under this title.

3. If any Excess Proceeds remain following the above distributions, the remainder is distributed as follows:

- (a) Ten percent (10%) of the remaining funds up to a maximum of five hundred dollars (\$500) shall be paid to the Commissioner for the administration of the distribution of Excess Proceeds;
- (b) The remainder shall be paid to the former Owner of the property upon submission of a complete application packet and any other documents required by the Commissioner from the former Owner, and upon the approval of the Commissioner.

## SUBTITLE B | SUBMITTING A CLAIM

### 1. Who Can Submit a Claim

- (a) Excess Proceeds can only be claimed by the former Owner of the property.
  - (1) The former Owner must have held record title to the property at the time of the sale;
  - (2) If the former Owner is a corporation, partnership, or other legal entity, it must be capable of owning real property in the State of Arkansas.
- (b) Only an heir within the first degree of consanguinity can claim Excess Proceeds.
  - (1) Such heirs must be directly related within the first generation, which generally means they are only the parents or children of the former Owner;
  - (2) Additional documentation to claim as an heir shall be required and includes such information as the death certificate of the former Owner, any probate records related to the former Owner, the birth certificate of the heir, an affidavit of heirship from a disinterested third party, and such other information as the Commissioner may require.
- (c) A former Owner, part-Owner, or Interested Party who purchases property at a tax sale is not entitled to a distribution of Excess Proceeds.

### 2. Submitting the Claim

- (a) A claim packet may be obtained through the Commissioner's website, <http://www.cosl.org/> or by calling the Commissioner's office and requesting that a packet be mailed.
- (b) A complete claim packet must include all of the following, or it will be returned to the claimant:
  - (1) A claim form;
  - (2) A deed of release;
  - (3) A release and indemnification;
  - (4) A third-party release and indemnification;
  - (5) The claimant's W-9;
  - (6) A copy of the deed vesting title in the former Owner;
  - (7) Proof that the former Owner received mail at the address certified by the county;
  - (8) Two forms of identification, one of which must be a picture ID; and

- (9) Any other information that the Commissioner may require in support of the claim.
- (c) If the claim is submitted by an heir, the documentation set forth in subsection 2(b)(2) of this title must also be provided.
- (d) If the claim involves the services of a third-party agent, the following must also be provided:
- (1) A copy of the signed contract between the agent and the former Owner, which may not allow for a fee of greater than ten percent (10%) of the Excess Proceeds to be paid to the agent; and
  - (2) A third-party release and indemnification signed by the third-party agent.
- (e) If the former Owner was a corporation, partnership, or other legal entity, the following must additionally be submitted:
- (1) Documents establishing authority of the person to act on behalf of the legal entity; and
  - (2) A current certificate of good standing for the entity.

#### SUBTITLE C | APPROVAL OF CLAIMS

1. The claim shall be denied if the above requirements are not strictly met.
2. Submission of a claim does not guarantee the approval of the claim.

#### SUBTITLE D | PERIOD OF TIME FOR SUBMISSION OF CLAIMS

1. The Excess Proceeds are held for a period of three (3) years, or as determined by the requirements of the law at the time the property was sold.
2. If the Excess Proceeds are not distributed during the time period pertaining to the specific parcel, they shall escheat by operation of law to the county where the tax-delinquent property sold is located.
3. Funds held by the Commissioner past the date required to escheat to the county by statute belong to the county and are not subject to recovery by the former Owner or anyone else.

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## *Title 5: Sale of Public Lands*

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### **SUBTITLE A | ADDITIONAL DUTIES**

1. In addition to other duties and powers conferred by law upon the Commissioner of State Lands, he or she shall have the following duties and powers:

(a) Effectuate the policies declared in § 22-5-301, to carry out its purposes by securing the cooperation and assistance of the United States and any of its agencies, and to enter into contracts, agreements, and conveyances necessary to secure such federal assistance;

(b) Conduct investigations, independently or jointly with other state and federal agencies, relating to conditions and factors affecting, and methods of accomplishing more effectively, the purposes of this subchapter; and

(c) Assign lands to the several state agencies for administration, subject to their agreement and acceptance.

### **SUBTITLE B | APPRAISALS**

2. The Commissioner of State Lands may appoint appraisers to inspect and appraise state-owned lands for sale, transfer, or donation.

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

(b) Each appraiser selected shall, by education or experience, be familiar with and know how to arrive at the value of lands, water rights, mineral rights, timber lands, rural lands, agricultural lands, and noncultivable 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 passing dependable judgments upon the values of rural properties.

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

(d) Each appraiser shall enter into bond to the state in the sum of one thousand dollars (\$1,000), to be furnished by a surety company authorized to do business in the State of Arkansas,

conditioned that he or she will faithfully discharge all of his or her duties according to law and the rules of the Commissioner of State Lands.

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

### **SUBTITLE C | DISPOSITION OF STATE LANDS**

3. State lands shall be disposed of according to the following requirements:

(a) State lands shall be classified as to whether they should be retained in public ownership or returned to private ownership through sale or donation, and the classification may be changed.

(b)(1) The Commissioner of State Lands shall dispose of the lands and make deeds to the lands in accordance with this classification.

(2) With the approval of the Governor and review by the General Assembly or the Legislative Council, lands classified as suitable for return to private ownership may be sold to private parties by the Commissioner of State Lands.

(c) The Commissioner of State Lands may direct that land shall be retained and administered by certain appropriate state or local agencies or shall be disposed of and deeded in such manner that the state shall be eligible for any benefits under any act of the United States Congress.

(d) Where lands are disposed of by return to private ownership, the deeds shall contain such restrictive covenants or restraints on alienation as the Commissioner of State Lands may deem necessary to ensure the protection and use of the land in a manner beneficial to the public. All coal, oil, gas, and mineral rights shall be reserved to the state except in the case of tax-forfeited lands. However, the original owner or his or her heirs shall be allowed to redeem or acquire these lands in accordance with the provisions of this subchapter without the oil, gas, and mineral rights being restricted or reserved.

(e)(1) Where land is classified as land which should be returned to private ownership by sale, the Commissioner of State Lands shall offer the land for sale to the highest bidder, but only if his or her bid is at least equal to the appraised value.

(2) Land shall not be sold for less than its appraised value, except that, pending appraisal, the Commissioner of State Lands is authorized to continue sales of state lands as provided for in §§ 26-37-101 -- 26-37-105, 26-37-201 -- 26-37-205, and 26-37-301 -- 26-37-303.

(f) Land shall not be donated by the Commissioner of State Lands until they have been classified as appropriate for donation by the Commissioner of State Lands.

(g) If, at the end of three (3) years after appraisal by the Commissioner of State Lands, lands classified as land which should be returned to private ownership by sale shall remain unsold on the books of the Commissioner of State Lands, the unsold lands shall be reappraised by the Commissioner of State Lands.

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