

# Commissioner of State Lands

State of Arkansas

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Tommy Land, Commissioner



Rules 2023 Edition

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## Title 1: 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 parcels to the Commissioner of State Lands (the “Commissioner”). Upon certification, legal title to the parcels 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 parcels are 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 parcels or, if the delinquent taxes are not paid in full before the date set for sale, selling the parcels. The Commissioner offers the parcels for sale at a public auction. If the parcel does not sell, then the Commissioner offers the parcel for sale at the ongoing Unsold-Property Auctions beginning thirty (30) calendar 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having been promulgated and adopted by the Commissioner, shall be in full force and effect until they are amended or repealed pursuant to law. All previous Rules adopted and published by the Commissioner are hereby superseded and repealed insofar as they may be different from or in conflict with the Rules herein.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 parcels that have 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 parcel made by a prospective buyer, whether in person or online.

**Business Day**- A Monday, Tuesday, Wednesday, Thursday, or Friday that is not otherwise observed as an official state holiday.

**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.

**CT**- All references to times are under the North American Central Time Zone.

**Earnest Money**- The first One Hundred Dollar (\$100.00) payment tendered as part of an Online Auction Sale.

**Excess Proceeds**- Money received from a Bid or sale that is in excess of the taxes, fees, penalties, interest, and costs due on the parcel 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 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, or partnership holding title to or an interest in the tax-delinquent parcel by virtue of a recorded instrument at the time of Certification.

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

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

**Negotiated-Price Auction**- A type of an Unsold-Property Auction that occurs two (2) years or more following the Tax Delinquent Property Auction, where the Commissioner has the discretion to set a Reserve Bid Amount for less than the amount of taxes, penalties, interest, fees and costs of the sale. Negotiated-Price Auctions are held solely online.

**Notice of Sale**- Notification sent to the Owner or other Interested Parties as identified by the Commissioner, as having a potential interest in a tax-delinquent parcel 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 parcel, unless they take immediate action to pay the taxes, penalties, interest, fees, and costs due. Notice is also provided by publication in a newspaper having general circulation in the

county where the parcel is located.

**Owner-** Any person, firm, corporation, or partnership holding title to or an interest in the tax-delinquent parcel by virtue of a recorded instrument at the time of Certification.

**Purchaser Summary-** A receipt provided at the conclusion of a Tax Delinquent Auction which verifies that a person or entity is the successful bidder and has tendered payment in an acceptable form. A Purchaser Summary does not convey title or guarantee a Limited Warranty Deed will be issued.

**Redeemer-** Either the Owner of the parcel or any other person, firm, corporation, or partnership without an existing ownership interest in the parcel who redeems the parcel by paying all taxes, penalties, interest, fees and costs due.

**Redemption/Redeem-** An action of payment to the Commissioner of all delinquent taxes, penalties, interest, fees and costs due to extinguish the state's interest in the parcel. Upon Redemption, a Redemption Deed will be issued.

**Redemption Deed-** A deed issued by the Commissioner which serves as proof that payment has been received and the state's interest is extinguished by the redemption. Issuance of a redemption deed does not convey any title in or establish ownership to the parcel being redeemed. A Redemption Receipt will be issued to the Redeemer in the event the redeemer is not the certified record owner.

**Redemption Receipt –** A receipt issued to a Redeemer certifying payment in the event the Redeemer is not the certified record owner.

**Reserve Bid Amount-** An amount set by the Commissioner that represents the minimum Bid amount.

**Tax Delinquent Property Auction-** An auction for the sale of tax-delinquent parcels where bidders are physically assembled and Bids accepted.

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

**Unsold-Property Auction -** A sale consisting of Bids placed online on a tax-delinquent parcel that was previously offered at a Tax Delinquent Property Auction but not sold. An Unsold-Property Auction is initiated solely by an online offer being made on the unsold parcel and is sold to the highest bidder.

**Unsold-Property Auction Closing Date-** The thirtieth (30<sup>th</sup>) calendar day from the date of the receipt of the first online Bid for a parcel located on the Unsold-Property Auction list. The date that the first Bid is received is included in the thirty (30) calendar days.

**Unsold-Property Auction Commencement Date-** The date of the receipt of the first online Bid for a parcel located on the Unsold-Property Auction list.

## SUBTITLE E | PARCEL OFFERED FOR SALE

All parcels offered for sale by the Commissioner have been certified to the State by the county in which the parcels are 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 parcel is certified to the Commissioner.

The parcel 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. The parcel is not identified by physical address.

A list of tax delinquent parcels being offered for sale will be available at the Tax Delinquent Property Auction or through the Commissioner's website, <https://www.cosl.org/>. A list of Unsold-Property Auction parcels available for sale will be available through the Commissioner's website. Lists of both Tax Delinquent Property Auction and Unsold-Property Auction parcels are subject to change at any time.

Offered parcels may be subject to liens or encumbrances, 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 and 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 parcel. Successful purchasers acquire the parcel, both surface rights and mineral rights, if not previously separated, in the 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 parcel for their intended purpose and to exercise due diligence in researching the parcel.*

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 parcel 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 parcel offered for sale. Further, the Commissioner does not guarantee the usability of, access to, or suitability for a particular purpose of any parcel. 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 certified mail and regular mail. Failure to include certain information required by statute may invalidate a sale of the parcel. Only an Owner or Interested Party may challenge the compliance of the notice statutes. The required contents of notices follow.

1. 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 parcel is located.
- (b) The published notice shall contain the following:
  - (1) The amount of taxes, penalties, interest, fees, and other costs due on the parcel;
  - (2) The name of the Owner;
  - (3) A list of all Interested Parties as identified by the Commissioner;
  - (4) The legal description and parcel number identifying the parcel: a partial or abbreviated legal description shall be sufficient in the notice if the name of the Owner and parcel number are listed;
  - (5) Indicate that the parcel will be sold to the highest bidder provided the Bid is equal to the taxes, penalties, interest, fees, and costs owed on the parcel.
- (c) Being listed in a public notice does not convey status to an individual or entity determining that it is an Owner or Interested Party.
- (d) Failure of the notice to contain the information required in subsection (b) of this section does not invalidate an auction sale of the parcel unless an Owner or Interested Party did not receive notice in substantial compliance with § 26-37-301.
- (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.
  - (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 parcel is:
  - (1) Obtained after Certification to the Commissioner; or
  - (2) Expired, barred, released, or otherwise terminated before the date of sale.
- (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 parcel 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 parcel will be sold if not redeemed prior to 4:00 p.m. CT on the last business day 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) calendar 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 | REDEMPTION NOTICE**

All Redemptions must be received prior to 4:00 p.m. CT on the last business day prior to the date of sale of a parcel, whether at a Tax-Delinquent Property Auction or an Unsold-Property Auction, in the following manner:

1. If a tax-delinquent parcel is to be offered at an in-person Tax Delinquent Property Auction, then at least thirty (30) calendar days prior to the date of the sale, the Commissioner shall notify the Owner and any Interested Parties by regular mail of the right to redeem the parcel prior to 4:00 p.m. CT on the last business day prior to the date of the sale by paying the amount of taxes, penalties, interest, fees and costs due on the parcel.
2. If a tax-delinquent parcel is to be offered for sale online through an Unsold-Property Auction when the first Bid is received, the Commissioner shall notify the Owner and any Interested Parties by certified mail of the date of the sale and the right to redeem the parcel before 4:00 p.m. CT on the last business day prior to the date of the sale by paying the amount of taxes, penalties, interest, fees and costs due on the parcel.
3. The notice required under this subtitle must be sent to the last-known address of the Owner as certified by the county, and any Interested Parties.
4. If a parcel subject to paragraph 1 of this subtitle is not Redeemed by the deadline stated in paragraph 1, the parcel shall be offered for sale at an in-person Tax-Delinquent Property Auction, and if sold, a Limited Warranty Deed shall be issued by the Commissioner to the purchaser.
5. If a parcel subject to paragraph 2 of this subtitle is not Redeemed by the deadline stated in paragraph 2, upon sale of the parcel, the Commissioner shall issue a Limited Warranty Deed to the purchaser.
6. Payment to Redeem a tax-delinquent parcel within thirty (30) days prior to the sale date shall be made by certified funds, including without limitation, cash, credit card, debit card, electronic check, escrow check, money order, cashier's check, or certified bank check.



## 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 parcel 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.

Title insurance companies may or may not issue title insurance on parcels purchased at these auctions, and the Commissioner makes no representation as to the availability of title insurance on these parcels. 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 PARCELS

1. Until a tax-delinquent parcel is sold or disposed of by the State, a person who wishes to redeem the parcel shall submit the following to the Commissioner:
  - (a) A petition to redeem the parcel that may be obtained by request through the Commissioner's website, <https://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 include a signature verified by the petitioner.
3. The parcel may be redeemed online through the Commissioner's website, [https://www.cosl.org](https://www.cosl.org/), by completing an online petition and paying with a credit or debit card. If the parcel is redeemed online, the petitioner is not required to submit a paper copy of the Petition to Redeem.
4. The total amount due on a petition to redeem is valid for thirty (30) calendar days from the date requested, unless the parcel 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) calendar 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.
5. Effective July 1, 2023, petitions and payments must be received in the Commissioner's office prior to the petition's expiration date or prior to 4:00 p.m. CT on the last business day prior to the date of sale, whichever is earlier. Postmarks will not be accepted. Deadlines are strictly enforced.
6. Partial payments, incomplete petitions or incorrect petitions will not be accepted and will not extend the Redemption period.
7. Payment to Redeem a tax-delinquent parcel under this subtitle shall be made in cash, Certified Funds, or as provided in § 26-37-302, if the Redemption occurs within thirty (30)

calendar days before 4:00 p.m. CT on the last business day prior to the date of sale of either the Tax-Delinquent Auction or an Unsold-Property Auction.

8. Effective July 31, 2023, upon Redemption
  - (a) If the Redeemer is the owner, a Redemption Deed and Redemption Receipt will be issued in the name of the owner by the Commissioner and filed with the county.
  - (b) If the Redeemer is not the owner, a Redemption Deed will be issued in the name of the owner and a Redemption Receipt will be issued to the Redeemer.

#### SUBTITLE J | PENALTIES

1. 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.
2. 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.
  - (a) Pursuant to the provisions of Ark. Code Ann. §§ 26-37-317, effective July 31, 2023, the Commissioner shall impose a penalty equal to the greater of ten percent (10%) of the face value of the payment instrument or twenty dollars (\$20.00) for any sale canceled, set aside, or held for naught for any of the following reasons.
    1. The payment instrument is refused by the drawee because of insufficient funds; or
    2. The maker or drawer of the payment instrument stops payment; or
    3. The payment instrument tendered to the Commissioner is dishonored for any reason.
3. When a dishonored instrument is received:
  - (a) The Commissioner will notify the issuer that the instrument has been dishonored; and
  - (b) Provide the issuer with a date by which the instrument must be made good.
  - (c) If the issuer fails to make good by the specified date, the instrument plus the added penalty will be turned over for collection.
4. Upon failure or dishonor of a payment instrument, the Commissioner may issue a cancellation deed setting aside the redemption deed or limited warranty deed.

#### SUBTITLE K | 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) calendar 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 parcel being litigated.
  - (b) Act 1231 of 2013 amended Arkansas Code § 26-37-203 to a ninety (90) day litigation period. The litigation period of any parcel purchased from the Commissioner should be determined by consultation with private legal counsel.

(c) Any purchaser taking action or expending money with respect to the parcel, 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 parcel is proven to be non-existent or double assessed, or canceled by the Commissioner, the purchaser shall be entitled to a reimbursement of money paid to the Commissioner, interest not accruing thereon.

**SUBTITLE L | FEES**

(1) The Commissioner 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
- (c) Quitclaim deed of mineral interest under § 22-6-502 .....5.00
- (d) Issuance of duplicate deeds and patents under § 22-6-104 .....5.00
- (e) Issuance of original patents under § 22-6-105 .....5.00
- (f) Redemption deeds issued under § 26-37-310 .....5.00
- (g) Issuance of sale deeds .....5.00
- (h) Double entry statements .....3.00
- (i) Disclaimers .....3.00
- (j) For each page of field notes issued by the office of the Commissioner .....0.50
- (k) A fee of five dollars (\$5.00) plus actual cost for each General Land Office plat copied and distributed.

(2) The Commissioner shall charge a collection fee of twenty-five dollars (\$25.00) against all tax delinquent parcels redeemed or sold by the Commissioner, 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, there shall be paid a fee of ten dollars (\$10.00).

(4) For each donation deed issued by the Commissioner, 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 Tax Delinquent Property Auctions

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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. A valid driver's license number, expiration date, and issuing state must be provided as part of the registration process. Bidders shall be required to show a photo identification.

### SUBTITLE B | BIDDING AT TAX DELINQUENT PROPERTY AUCTIONS

#### 1. Bidding at a Tax Delinquent Property Auction

- (a) Subject to proper registration as outlined in Subtitle A of this section, Bids may be made at a Tax Delinquent Property Auction on the day of the sale.
- (b) Each parcel will be offered in the order appearing on the auction list.
- (c) An oral Bid accepted at a Tax Delinquent Property 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. Who May Bid

- (a) Any person, corporation, association, other legal entity, or agent thereof may Bid on the parcels offered, except that the following may not Bid or purchase parcels through a tax auction, whether directly or indirectly:
  - (1) The Commissioner and his or her employees;
  - (2) The county collector or his or her deputy;
  - (3) An individual or entity whose home of record is outside the United States; and
  - (4) A former Owner or Interested Party.
- (b) Persons or entities that have won previous auctions and did not pay or submitted payment by an instrument that was dishonored may be prohibited from bidding.
- (c) Effective July 1, 2021, in the event it is determined that a tax-delinquent parcel previously certified to the Commissioner has been purchased by an individual or entity whose home of record is outside the United States:
  - (1) The deed shall be cancelled by the Commissioner within three (3) business days of the determination;
  - (2) Any and all monies originally paid to the Commissioner for the parcel are

immediately forfeited to the Commissioner; and

(3) The parcel is immediately considered certified without further action to the Commissioner as tax delinquent.

3. When bidding on a parcel at a Tax Delinquent Property Auction, the following procedures apply:

(1) The minimum Bid amounts are shown on the auction 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 bidder for not less than the minimum Bid amount.

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

4. Terms of Sale

(a) The full purchase price is equal to the highest amount Bid.

(b) Successful bidders at a Tax Delinquent Property 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 auctions.

(c) Effective July 1, 2023, each parcel purchased at the Tax Delinquent Property Auction must be paid by personal check, business check, certified funds, or credit or debit card. Cash payments are not accepted as a payment method. Payments by credit or debit card are subject to a non-refundable processing fee charged by the issuing credit card company.

(d) Effective July 1, 2023, all Certified Funds, business checks, and personal checks should be made payable to the “Commissioner of State Lands.”

(e) No purchase may be made on a time-payment plan. It is the bidder’s responsibility to already have acceptable funds available for payment.

(f) Upon payment of the full purchase price, the successful bidder will receive a Purchaser Summary from the Commissioner.

(g) The Commissioner reserves the right to cancel any sale.

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

Effective July 1, 2023, issuance of a Limited Warranty Deed will be contingent upon full payment of the purchase price. The deed will be recorded in the county where the parcel is located and then forwarded to the purchaser.

#### **SUBTITLE D | ANNOUNCEMENTS AT TAX DELINQUENT PROPERTY AUCTIONS**

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 parcel in the sale catalog does not guarantee availability on the day of the Tax

Delinquent Property Auction. Effective July 1, 2023, parcels may be redeemed before 4:00 p.m. CT the last business day 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: Unsold-Property Auctions

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### SUBTITLE A | WHEN A PARCEL BECOMES ELIGIBLE FOR AN UNSOLD-PROPERTY AUCTION

Thirty (30) calendar days following the initial Tax Delinquent Property Auction, all parcels not sold at the Tax Delinquent Property Auction shall be placed on the Unsold-Property Auction list maintained by the Commissioner. This list shall be placed on the Commissioner's website, <https://www.cosl.org/>.

Listing a parcel on the Unsold-Property Auction 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 Unsold-Property Auction list that are subsequently not available. Potential purchasers should carefully research the parcels they intend to purchase prior to submitting Bids. The Commissioner reserves the right to reject any or all offers.

The Unsold-Property Auction will be conducted online, and Bids will only be accepted online.

### SUBTITLE B | REGISTRATION

Prior to placing any online Bid, prospective bidders must complete an initial online registration. This registration will provide each bidder with a unique identifier that will be used in the event the bidder wishes to make multiple purchases either at the time of registration or at a future online auction. This includes completing an identity (ID) verification process. The registration shall include the following:

1. Completing the ID verification process.
2. Accurate credit card or debit card information;
3. Acknowledgement and agreement that the payment method provided shall be immediately charged the \$100.00 Earnest Money if his or her Bid is successful; and
4. A valid driver's license number, expiration date, and issuing state.

No Bids will be accepted unless the bidder has provided accurate payment information and completed the ID verification process. Failure to pay based on the inability to process payment based on the information provided may result in refusal to accept future Bids.

### SUBTITLE C | BIDDING AT UNSOLD PROPERTY AUCTIONS

1. Bidding
  - (a) Online bidding for the Unsold-Property Auctions parcels shall not be available to the public until the parcel is added to the Unsold-Property Auctions list.
  - (b) No Bid shall be accepted unless all requirements for registration are met.
  - (c) An online Bid shall be considered a binding offer to purchase and shall obligate the potential purchaser to the terms and conditions published online and set forth in these

Rules.

2. Auction Period

(a) The auction period begins on the Unsold-Property Commencement Date and shall end upon the Unsold-Property Auction Closing Date

(b) On the Unsold-Property Auction Closing Date, bidding will automatically close promptly at 8:00 p.m. CT, after which time, no other Bids may be submitted;

3. Notification and Acceptance of Bid

(a) On the Unsold-Property Auction Closing Date, the successful bidder shall be notified by the Commissioner that his or her Bid has been successful;

(b) Upon this notification, the successful bidder's payment method provided at registration shall immediately be charged the \$100 Earnest Money; provided, however, if the successful Bid is an amount less than one hundred dollars (\$100.00), the full Bid amount shall be charged as Earnest Money and payment in full;

(c) Commencing on the date of this notification, the successful bidder shall tender the entire amount of the Bid within ten (10) business days by payment in Certified Funds.

(d) Failure of a successful bidder to tender the Earnest Money or the full purchase price within the specified time may result in revocation of registration and a prohibition on bidding in any or all future auctions.

4. Who May Bid

(a) Any person, corporation, association, other legal entity, or agent thereof may Bid on the parcels offered, except that the following may not Bid or purchase a parcel 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;

(3) An individual or entity whose home of record is outside the United States; and

(4) A former Owner or Interested Party.

(b) Any persons or entities that have won previous auctions and submitted payment via a check with insufficient funds, provided payment information upon which funds could not be drawn or otherwise failed to pay may be prohibited from bidding.

(c) Effective July 1, 2021, in the event it is determined that a tax-delinquent parcel previously certified to the Commissioner has been purchased by an individual or entity whose home of record is outside the United States:

(1) The deed shall be cancelled by the Commissioner within three (3) business days of the determination;

(2) Any and all monies originally paid to the Commissioner for the parcel are



immediately forfeited to the Commissioner; and

(3) The parcel is immediately considered certified without further action to the Commissioner as tax delinquent.

5. Terms of Sale

- (a) The full purchase price is equal to the amount of the successful Bid.
- (b) Once a bidder is notified that his or her Bid has been successful, the Earnest Money for each parcel purchased shall be immediately paid by processing the payment method provided at registration.
- (c) Effective July 1, 2023, in the event the payment for the Earnest Money fails, the sale will be cancelled and the buyer may be prohibited from bidding in any or all future auctions.
- (d) The balance of the Bid, less the Earnest Money already paid, shall be payable by Certified Funds.
- (e) Payment by credit or debit card is subject to a non-refundable processing fee charged by the issuing credit card company.
- (f) All Certified Funds should be made payable to the “Commissioner of State Lands.”
- (g) No purchase may be made on a time-payment plan. It is the bidder’s responsibility to already have Certified Funds available for payment.
- (h) Effective July 1, 2023, in the event of failure to pay the balance due after the Earnest Money has been paid, the Earnest Money is forfeited to the Commissioner, the sale will be cancelled, and the buyer may be prohibited from bidding in any or all future auctions.
- (i) If no redemption occurs before 4:00 p.m. CT the last business day prior to the Unsold-Property Auction Closing Date and payment of the full purchase price is received, the purchaser will receive a Limited Warranty Deed from the Commissioner.
- (j) The Commissioner reserves the right to cancel any sale.

**SUBTITLE D | NOTICE OF THE UNSOLD-PROPERTY AUCTIONS**

On the Unsold-Property Auction Commencement Date, the Commissioner shall send notice to the Owner and Interested Parties by certified mail and regular mail in the manner prescribed in Title 1 above.

Purchasers can expect the Unsold-Property Auction process to follow two distinct periods:

- 1. Upon the Unsold-Property Auction Commencement Date, a thirty (30) calendar day period follows during which the following occur concurrently:
  - (a) Additional online Bids may be placed beginning on the Unsold-Property Auction Commencement Date and ending on the Unsold-Property Auction Closing Date; and
  - (b) Notices are sent pursuant to Title 1, Subtitle F hereof.

2. Effective July 1, 2023, the expiration of this thirty (30) day period is deemed the Unsold-Property Auction date of sale.

#### **SUBTITLE E | RESERVE BID AMOUNTS**

For Unsold-Property Auctions held within the first two (2) years following the date of the Tax Delinquent Property Auction, the Reserve Bid Amount will be set at an amount equal to the taxes, penalty, interest, fees and costs of the sale.

For Negotiated-Price Auctions, the Reserve Bid Amount will be set at an amount the Commissioner determines to be in the best interest of the state and the local taxing units.

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

Payment by Certified Funds is due and payable upon notice that a Bid is successful and must match the total amount of the Bid less Earnest Money paid. Payments made after the ten (10) business day payment period or made with insufficient funds will cancel the sale, and the bidder shall forfeit the payment of the Earnest Money of each parcel purchased. Additionally, the purchaser may be prohibited from bidding in any or all future auctions.

After the Unsold-Property Auction Closing Date and receipt of payment in full of the Bid amount, the Commissioner shall issue a Limited Warranty Deed in the name of the successful bidder.

#### **SUBTITLE G | REPORTING REQUIREMENTS**

The Commissioner shall submit quarterly reports to the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, listing all tax-delinquent parcels sold at Unsold-Property Auctions, including a Negotiated-Price Auction.

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## Title 4: Excess Proceeds

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Any money collected through the sale of tax-delinquent parcels 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 parcel 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; however, the amount paid to the Commissioner shall not be a sum less than the amount necessary to pay filing fees required to record any deeds;
  - (b) The remainder shall be paid to the former Owner of the parcel 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) Former Owners can claim Excess Proceeds, subject to the following:
  - (1) The former Owner must have held record title to the parcel 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;
  - (3) Former owner does not include heirs or relations beyond the first degree of consanguinity.
- (b) Heirs or relations within the first degree of consanguinity can claim Excess Proceeds, subject to the following:
  - (1) Such heirs must be directly related within the first generation, which generally means they are the parents, children, or siblings 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;
  - (3) Any application by an heir who is beyond the first degree of consanguinity shall be rejected and not considered.
- (c) A former Owner, part-Owner, or Interested Party who purchases a parcel 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, <https://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 two (2) years, or as determined by the requirements of the law at the time the parcel 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 parcel 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; Emerged Lands

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### SUBTITLE A | ADDITIONAL DUTIES

1. In addition to other duties and powers conferred by law upon the Commissioner, 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 may appoint appraisers to inspect and appraise state-owned lands for sale, transfer, or donation.

(a) It shall be unlawful for the to dispose of state-owned lands without an appraisal made by appraisers appointed by the Commissioner, 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.

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

### 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 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.

(c) The Commissioner 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 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 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 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) Lands shall not be donated by the Commissioner until they have been classified as appropriate for donation by the Commissioner.

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

(h) Tax delinquent lands are not subject to the terms and restrictions of this Title 5 and may be disposed of as required by law.

#### SUBTITLE D | DEEDS TO EMERGED LANDS

The Commissioner, by virtue of Ark. Code Ann. §§ 22-5-405, Deeds to Lands in Lakes or Rivers, is empowered to execute deeds to riparian owners in certain circumstances. This Subtitle D shall establish the process and procedure through which the Commissioner may fulfill its obligations under the aforementioned code provision. The Commissioner shall create an online application process.

1. Riparian owners seeking a deed to emerged lands from the Commissioner shall:

(a) Complete the online application provided on the Commissioner's website, <https://www.cosl.org/>.

(b) In addition to the completed application, the applicant shall provide:

(1) A survey of the land for which the deed is sought, performed and prepared by a professional surveyor licensed by the State of Arkansas;

(2) All field notes and plats created as part of the survey; and

(3) Three (3) affidavits from competent persons having full personal knowledge of the facts. Each affidavit shall include:

(a) A statement of knowledge that the area for which the deed is sought has emerged to the ordinary high water mark; and

(b) The area for which the deed is sought is capable of cultivation.

2) The sufficiency and acceptance of any application submitted shall be solely at the discretion of the Commissioner.