

State of Arizona  
Senate  
Forty-ninth Legislature  
First Regular Session  
2009

Senate Engrossed  
**FILED**  
**KEN BENNETT**  
**SECRETARY OF STATE**

CHAPTER 71

# **SENATE BILL 1294**

AN ACT

AMENDING SECTIONS 37-241, 37-247 AND 37-288, ARIZONA REVISED STATUTES;  
RELATING TO STATE TRUST LAND DEFAULTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 37-241, Arizona Revised Statutes, is amended to  
3 read:

4 37-241. Terms of sale of state land; payment; interest rate

5 A. The terms of sale of state land are as follows:

6 1. At least ten per cent, but not more than twenty-five per cent, of  
7 the appraised value, as stated in the auction notice, which shall be applied  
8 to principal, together with the required fees prescribed by section 37-108,  
9 shall be paid by cashier's check upon announcement of the successful bidder.

10 2. If the amount bid for the land exceeds the appraised value, further  
11 payment shall be made within thirty days so that the total amount paid  
12 including the amount paid on the date of sale shall equal the percentage of  
13 the bid, as stated in the auction notice, which shall be allocated to  
14 principal, together with the required fees prescribed under section 37-108.

15 B. Upon payment of the amounts provided in subsection A of this  
16 section, and upon compliance by the purchaser with the requirements of this  
17 article, and the payment of the fees under section 37-108, a certificate of  
18 purchase shall issue as provided in section 37-244. On full payment for the  
19 entire tract of land sold within thirty days after the auction, the  
20 department shall issue a patent as provided in section 37-251.

21 C. If the purchaser fails to complete the payment of the percentage of  
22 the bid stated in the auction notice, together with the fees required by  
23 section 37-108, or to enter into a contract of sale within the time provided  
24 in the certificate of purchase offered by the department:

25 1. The purchaser forfeits all amounts paid, including:

26 (a) All payments made on the purchase price, which shall be deemed to  
27 be rental for the land.

28 (b) All amounts paid under section 37-108.

29 2. The commissioner may declare that the bid placed before the final  
30 bid accepted is the highest bid, and that bidder has five business days after  
31 notification by the department to pay by cashier's check all amounts due  
32 under this section and section 37-108.

33 D. The balance of the purchase price is payable as follows:

34 1. The commissioner shall establish prior to the notice of sale the  
35 length of the term over which the balance shall be paid, and whether a  
36 variable or fixed interest rate is appropriate, OR WHETHER THE ENTIRE BALANCE  
37 WITHOUT INTEREST IS DUE AND PAYABLE WITHIN THIRTY DAYS AFTER THE  
38 AUCTION. This determination shall be based on the nature of the land being  
39 sold and general market conditions in effect at the time.

40 2. After establishing the length of the term and whether a fixed or  
41 variable rate is appropriate, the commissioner shall notify the state  
42 treasurer to establish the interest rate after consideration of local  
43 prevailing prime interest rates and mortgage rates and the maximum amount of  
44 interest set by statute by this state, if any.

1           3. If a variable rate is established, the interest rate charged a  
2 purchaser may vary from year to year. The department shall annually notify  
3 each purchaser of the interest rate specified by the state treasurer to be  
4 paid by the purchaser for the following year and the total amount of interest  
5 payable the following year with the purchaser's annual payment.

6           E. The commissioner shall establish prior to the notice of sale the  
7 length of the term over which the balance shall be paid. The term shall not  
8 exceed twenty-five years.

9           F. The length of term, ~~AND~~ interest rate and whether the rate is  
10 variable or fixed shall be considered terms of the sale to be included in the  
11 notice required by section 37-237.

12           G. The purchaser may discharge the entire debt at any time and be  
13 entitled to a patent for the land if the purchaser pays the entire purchase  
14 price, together with the applicable fees, and demonstrates that all terms and  
15 conditions of the certificate of purchase have been satisfied.

16           Sec. 2. Section 37-247, Arizona Revised Statutes, is amended to read:  
17           37-247. Purchaser's default; forfeiture and cancellation of  
18                                   certificate of purchase; extension of time for  
19                                   payments

20           A. When a purchaser defaults in a payment of principal or interest, as  
21 provided in the certificate of purchase, or fails to comply with a condition,  
22 covenant or requirement thereof, the certificate shall be declared subject to  
23 forfeiture. Within sixty days after default or failure the department shall  
24 give notice of the default or failure by certified mail to the purchaser's  
25 last known address of record in the department.

26           B. If the payment is not made, or the condition, covenant or  
27 requirement is not complied with, within sixty days from the date of notice,  
28 the certificate of purchase and all rights of the purchaser to the land and  
29 improvements thereon may be canceled. In the event of cancellation, the  
30 commissioner shall make a formal order canceling the certificate of purchase  
31 and a copy of the order shall be mailed to the last known post-office address  
32 of the holder of the certificate of purchase. If no appeal is made within  
33 thirty days from the date a copy of the order is mailed to the holder of the  
34 certificate of purchase, the order shall become final and the certificate of  
35 purchase shall be canceled on the records of the department, and the  
36 improvements and all payments made on the purchase price shall be deemed  
37 rental for the land.

38           C. On the purchaser's written request, the commissioner may extend the  
39 time for payment of the amount delinquent for a period of not more than five  
40 years on terms that the commissioner considers to be appropriate as follows:

41           1. The commissioner may grant an extension in response to a request  
42 made within sixty days before the due date of the payment. An extension  
43 under this paragraph begins on the date the payment was due and continues for  
44 the period stated in a written notice to the purchaser.

1           2. The commissioner may grant an extension in response to a request  
2 made within sixty days after the date of the default or failure notice  
3 provided in subsection A. An extension under this paragraph begins on the  
4 date of the notice and continues for the period stated in a written notice to  
5 the purchaser.

6           3. If the department does not act on a request for extension within  
7 thirty days after receiving the request, the request is considered to be  
8 denied. If the purchaser fails during the period of the extension to  
9 complete all delinquent payments, including principal and interest, THE  
10 CERTIFICATE OF PURCHASE IS SUBJECT TO DEFAULT AND CANCELLATION PURSUANT TO  
11 SUBSECTIONS A AND B, EXCEPT THAT IF THE LAST DAY OF THE LAST PERIOD OF  
12 EXTENSION EXPIRES ON THE LAST DAY OF THE FIVE-YEAR PERIOD AND ALL DELINQUENT  
13 PAYMENTS HAVE NOT BEEN PAID BY THE LAST DAY OF THE FIVE-YEAR PERIOD, the  
14 certificate of purchase shall automatically be canceled ON THE LAST DAY OF  
15 THE FIVE-YEAR PERIOD and noted on the records of the department.

16           D. IF A PAYMENT OF PRINCIPAL OR INTEREST IS MADE AFTER THE DUE DATE,  
17 PAYMENTS SHALL BE MADE ACCORDING TO THE EXTENSION GRANTED BY THE COMMISSIONER  
18 UNDER SUBSECTION C. IF NO EXTENSION WAS GRANTED, DELINQUENT INTEREST SHALL  
19 BE ADDED AT A RATE SET BY THE STATE TREASURER.

20           Sec. 3. Section 37-288, Arizona Revised Statutes, is amended to read:

21           37-288. Forfeiture of leases; extension of time for payment;  
22                           penalty and interest on delinquent rental; automatic  
23                           termination for arrearage

24           A. A lessee of state lands violating any condition of the lease shall  
25 be in default and shall forfeit the lease and ~~his rights thereunder~~ THE  
26 LESSEE'S RIGHTS UNDER THE LEASE after cancellation pursuant to section  
27 37-289.

28           B. If the lessee fails to pay the rent when due, the department may  
29 extend the time for payment an additional period not to exceed ninety days.  
30 The department shall not extend the period for payment of rental more than  
31 three times in one lease year and in no event for more than two hundred  
32 seventy days.

33           C. There shall be added to the delinquent rental a penalty ~~of five per~~  
34 ~~cent and interest on the delinquent rent and penalty at the then current rate~~  
35 AND DELINQUENT INTEREST. THE DELINQUENT INTEREST SHALL BE set by the STATE  
36 treasurer under section ~~37-241~~ 37-247, subsection D, ~~paragraph 3,~~ until  
37 ~~paid.~~ THE PENALTY SHALL BE THE GREATER OF A MINIMUM PROCESSING COST AS  
38 DETERMINED BY THE COMMISSIONER OR FIVE PER CENT. The delinquent rent,  
39 penalty and interest shall be a lien on the improvements, crops and property  
40 on the land.

41           D. If, on a lease of ten years or less, the annual rental at any time  
42 is one calendar year in arrears from the date the rental payment was due, the  
43 lease shall automatically terminate and the department shall proceed to  
44 cancel it on the records of the department.

~~APPROVED BY THE GOVERNOR JULY 10, 2009.~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 10, 2009.~~

Passed the House June 26, 20 09

by the following vote: 50 Ayes,

0 Nays, 10 Not Voting

Alan R. Spivack  
Speaker of the House  
Pro Tempore

Norman L. Fyooce  
Chief Clerk of the House

Passed the Senate June 22, 20 09

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

Robert L. Simon  
President of the Senate

Chermin Bellinger  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this  
1st day of July, 20 09

at 8:53 o'clock A. M.

Susan K. Kellyes  
Secretary to the Governor

Approved this 10th day of

July, 20 09,

at 9:56 o'clock A. M.

Janice K. Brewer  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this 10 day of July, 20 09,

at 12:30 o'clock P. M.  
Ken Blumeth  
Secretary of State

S.B. 1294