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ARIZONA ATTORNEY GENERAL

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PHOENIX, ARIZONA

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DEPARTMENT OF LAW OPINION NO. 68-1 (R-24)

REQUESTED BY: Wayne R. Gibson, Director
ARIZONA STATE RETIREMENT SYSTEM

QUESTION: Is property acquired by the Arizona State Retirement System Board through foreclosure of mortgage loans owned by said Board pursuant to A.R.S. § 38-757(B)(1) exempt from ad valorem real property taxes while so held?

ANSWER: Yes.

The Constitution of Arizona, Article 9, § 2, 1 A.R.S., as amended, exempts the property of the State from taxation. This exemption has been codified further in A.R.S. § 42-271(1).

While it is clear that land encumbered by a mortgage held by the State is subject to full property taxation, Steinfeld v. State, 37 Ariz. 389, 294 Pac. 834; Shumway v. State, 63 Ariz. 400, 163 P.2d 274, it is equally well settled that when the State acquires title to the property by foreclosing its mortgage lien, its exemption from property taxation is in full force and effect from that time forward until it resells the property, City of Phoenix v. Elias, 64 Ariz. 95, 166 P.2d 589.

While the decision in City of Phoenix v. Elias, supra, involved the question of the effect of a sale to the State upon the foreclosure of a tax lien, the language of the court is clearly all inclusive:

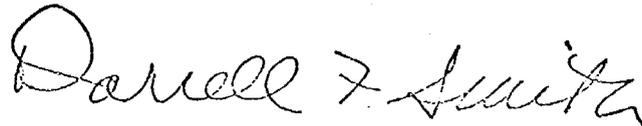
"After the sale of property to the state, as in this case for taxes [as in our case for a default in a mortgage to the State], and until such time as the State makes a sale again to an individual, if the same is made, no taxes can be levied and assessed against the property because the state is exempt from taxation under the provisions of

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Article 9, Section 2 of the Constitution of
Arizona." City of Phoenix v. Elias, supra, 64
Ariz. at 97 (Bracketed material added).

Thus, after the property subject to a mortgage of the State,
or in this case of the State Retirement System Board, (See: Board of
Regents of Universities, ETC. v. City of Tempe, 88 Ariz. 299, 356 P.2d
399), is foreclosed, sold to the State upon execution (A.R.S. §§ 12-
1621, et seq.), and deeded to the State after expiration of the
redemption periods (A.R.S. §§ 12-1281, et seq., and particularly
12-1286), such property is exempt from ad valorem real property
taxation until such time as the State resells the property.

Respectfully submitted,



DARRELL F. SMITH
The Attorney General

DFS:cah