

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 854 of the Regular Session

As Engrossed: S3/1/07 S3/7/07 S3/21/07

A Bill

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007

SENATE BILL 372

4  
5 By: Senators Brown, Steele, Madison, Wilkins, *Crumbly, Baker*  
6 By: Representatives D. Johnson, Adcock, Webb, Allen, T. Baker, Chesterfield, Davis, J. Johnson,  
7 Rainey, Overbey, *Dunn, Saunders, Wills, Blount, Cornwell, S. Dobbins, Harrelson, Hall, W. Lewellen,*  
8 *Hardy*

11 **For An Act To Be Entitled**

12 AN ACT TO GRANT CITIES AND TOWNS ADDITIONAL TOOLS  
13 TO DEAL WITH CRIMINAL, NUISANCE, AND VACANT  
14 PROPERTIES; AND FOR OTHER PURPOSES.

16 **Subtitle**

17 AN ACT TO GRANT CITIES AND TOWNS  
18 ADDITIONAL TOOLS TO DEAL WITH CRIMINAL,  
19 NUISANCE, AND VACANT PROPERTIES.

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

24 SECTION 1. Arkansas Code § 14-54-903 is amended to read as follows:  
25 14-54-903. Refusal of owner to comply.

26 (a) As used in this section:

27 (1)(A) "Clean up lien" means a lien securing the cost of work  
28 undertaken by a town or city to remove, abate, or eliminate a condition in  
29 violation of local codes.

30 (B) A clean up lien may have priority against other  
31 lienholders as provided in this section;

32 (2) "Court lien" means a lien securing the fines or penalties  
33 imposed by a court of competent jurisdiction against the owner of an unsafe  
34 and vacant structure or weed lot for failure to comply with applicable  
35 building codes which have been secured by a court lien by action of the local



1 governing body;

2 (3) "Priority clean up lien" means a clean up lien for work  
3 undertaken by a city or town on an unsafe and vacant structure or weed lot,  
4 that is given priority status over other lienholders following notice and  
5 hearing;

6 (4) "Unsafe and vacant structure" means a structure located on  
7 previously platted and subdivided property that is not fit for human  
8 habitation and has been declared unsafe and vacant by the city or town in  
9 which it is located in violation of applicable ordinance; and

10 (5) "Weed lot" means a previously platted and subdivided lot that  
11 is vacant or upon which an unsafe and vacant structure is located and that  
12 contains debris, rubbish, or grass which is higher than that permitted by  
13 local ordinance.

14 ~~(a)~~(b) If the owner or lienholder of any lot or other real property  
15 within an incorporated town or city shall neglect or refuse to remove, abate,  
16 or eliminate any condition as may be provided for under an ordinance passed  
17 by the city or town as provided for in § 14-54-901, after having been given  
18 seven (7) days' notice in writing to do so, then the town or city is  
19 authorized to do whatever is necessary to correct the condition and to charge  
20 the cost thereof to the owner of the lots or other real property.

21 ~~(b)~~~~(1)~~(c)(1) The town or city is given a lien against the property for  
22 the costs, including all administrative and collection costs.

23 (2) The town or city shall file the lien with the circuit clerk  
24 no later than one hundred twenty (120) days after the town or city completes  
25 the clean-up work on the property.

26 (3) The town or city may perfect its clean up lien as a lien  
27 against the property if the property:

28 (A) Contains an unsafe and vacant structure; or

29 (B) Has been cited as a weed lot.

30 (4) The clean up lien amount shall equal costs, including  
31 administrative costs, that the city or town incurs to help bring the property  
32 into compliance with local ordinances because the owner or lienholder failed  
33 to remove or repair an unsafe and vacant structure or failed to correct the  
34 conditions that caused the property to become a weed lot within the time  
35 required by the notice.

36 (5)(A) If a court of competent jurisdiction levies fines or

1 penalties against the owner of an unsafe and vacant structure or weed lot for  
2 failure to comply with applicable building codes, then the local governing  
3 body, by majority vote, from time to time, and subject to notice and hearing  
4 provided by this section, may secure any outstanding court fines or penalties  
5 resulting from the owner's failure to clean up an unsafe and vacant structure  
6 or weed lot with a court lien against the property for the full value of all  
7 the outstanding fines and penalties.

8 (B) A court lien does not have first priority status over  
9 prior, recorded liens and may be imposed in addition to clean up liens.

10 (6)(A) Notices shall be sent by regular mail and by certified  
11 mail, return receipt requested.

12 (B) Notice to owners shall be sufficient if sent to the  
13 owner's address of record with the applicable county treasurer or collector.

14 (7)(A) If the city or town wishes to secure a clean up lien, it  
15 shall provide seven (7) business days' notice to lienholders before  
16 undertaking any work at the property.

17 (B) Notice is sufficient if the notice is sent to the  
18 lienholder's address shown in the relevant land records.

19 (C) Cities and towns are not required to give notices to  
20 holders of unrecorded liens or to unrecorded assignees of lienholders.

21 (D) Any lienholder receiving notice under this section  
22 shall, within seven (7) business days from receipt of the notice, send a  
23 written response to the city or town indicating whether the owner of the  
24 property is in default under the terms of the note or mortgage.

25 ~~(e)(d)~~ The notice Any notice required under this section may be issued  
26 by a:

27 (1) Police officer employed by the city or town;

28 (2) City or town attorney; or

29 (3) Code enforcement officer employed by the city or town.

30 (e)(1) After the work has been completed, the city or town shall  
31 provide second notice to the owner and lienholders of record of the total  
32 amount of the clean up lien, including administrative and filing costs.

33 (2) Cities and towns are not required to give notice of court  
34 liens to prior lienholders.

35 (3) Notice of the amount of a clean up lien or a court lien may  
36 be combined with the notice of the hearing before the governing body to

1 create and impose the clean up or court lien.

2 (f) The amount of any clean up lien or court lien provided in this  
3 section may be determined at a public hearing before the governing body of  
4 the city or town held after thirty (30) days' written notice by mail, return  
5 receipt requested, to the owner of the property if the name and address of  
6 the owner are known and to the lienholders of record.

7 (g) If the name of the owner cannot be determined, then the amount of  
8 the clean up or court lien shall be determined at a public hearing before the  
9 governing body of the city or town only after publication of notice of the  
10 hearing in a newspaper having a bona fide circulation in the county where the  
11 property is located for one (1) insertion per week for four (4) consecutive  
12 weeks.

13 (h)(1) The determination of the governing body confirming the amount  
14 of any clean up or court lien and creating and imposing any clean up or court  
15 lien under this section is subject to appeal by the property owner or by any  
16 lienholder of record in the circuit court, filed within forty-five (45) days  
17 after the determination is made.

18 (2) If the owner or lienholder fails to appeal in this time, the  
19 lien amount shall be deemed fully perfected and not subject to further  
20 contest or appeal.

21 (i) The city or town shall file its lien with the  
22 circuit clerk no later than sixty (60) days after the governing body of the  
23 city or town confirms the lien amount, or if the lien is appealed, within  
24 sixty (60) days after the city or town wins on appeal.

25 (j)(1) If the city or town wishes to secure a first priority status for  
26 any clean up lien created and imposed in accordance with this section, it  
27 shall file an action with the circuit court within which the property is  
28 located seeking a declaration that the clean up lien is entitled to priority  
29 over previously recorded liens and naming the holders of the recorded liens  
30 as defendants.

31 (2) Priority status shall be awarded to the clean up lien with  
32 respect to any previously recorded lien if the court determines that such  
33 lienholder has failed to exercise its rights to foreclose its lien when the  
34 obligation it secures becomes in default or has failed to pay the costs of  
35 work undertaken by a city or town that comprise the clean up lien. However,  
36 the amount as to which the clean up lien shall have priority shall be such an

1 amount as the court deems to be reasonable and, in any event, shall be  
 2 limited to:

3 (A) No more than one thousand dollars (\$1,000) for grass  
 4 or weed cutting;

5 (B) No more than five thousand dollars (\$5,000) to board  
 6 and secure the property;

7 (C) No more than seven thousand five hundred dollars  
 8 (\$7,500) to demolish any structures on the property; or

9 (D) No more than fifteen thousand dollars (\$15,000) for  
 10 environmental remediation.

11  
 12 SECTION 2. Arkansas Code § 14-54-904(a), concerning enforcement and  
 13 collection of liens, is amended to read as follows:

14 (a) The ~~lien~~ liens provided for in § 14-54-903 may be enforced and  
 15 collected at any time within ten (10) years after the lien has been filed in  
 16 either one (1) of the following manners:

17 (1) ~~At any time within three (3) years after work has been done,~~  
 18 ~~by an action in the circuit court~~ By an action for foreclosure in the circuit  
 19 court by the city or town, or if the city or town has established a land  
 20 bank, by a land bank that has been assigned the lien; or

21 ~~(2)(A)(i)(a) The amount of the lien provided in § 14-54-903 may~~  
 22 ~~be determined at a hearing before the governing body of the municipality held~~  
 23 ~~after thirty (30) days' written notice by mail, return receipt requested, to~~  
 24 ~~the owner of the property if the name and address of the owner are known.~~

25 ~~(b) If the name of the owner cannot be determined, then the amount~~  
 26 ~~will be determined only after publication of notice of the hearing in a~~  
 27 ~~newspaper having a bona fide circulation in the county where the property is~~  
 28 ~~located for one (1) insertion per week for four (4) consecutive weeks.~~

29 ~~(ii) The determination of the governing body is~~  
 30 ~~subject to appeal by the property owner in the circuit court.~~

31 ~~(B)(i)~~ (2)(A) The amount so determined at the hearing,  
 32 plus ten percent (10%) penalty for collection, shall be certified by the  
 33 governing body of the municipality to the tax collector of the county where  
 34 the municipality is located, and placed by him or her on the tax books as  
 35 delinquent taxes and collected accordingly.

36 ~~(ii)(B)~~ (B) The amount, less three percent (3%) thereof, when

1 so collected shall be paid to the municipality by the county tax collector.

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*/s/ Brown*

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*APPROVED: 4/3/2007*

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