

ARKANSAS SENATE
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of Senate Bill No. 17

"TO AMEND THE STATUTORY FORECLOSURE LAW TO REQUIRE THE POSTING OF
SALE NOTICES ON THE PREMISES AND TO PROVIDE THAT A FORECLOSURE SALE
WITHOUT PROPER NOTICE MAY BE VOID."

Amendment No. 1 to Senate Bill No. 17.

Amend Senate Bill No. 17 as originally introduced:

Page 1, line 14, delete "VOID" and substitute "VOIDABLE"

AND

Page 1, line 21, delete "VOID" and substitute "VOIDABLE"

AND

Page 1, line 34, delete "(2)" and substitute "(2)(A)"

AND

Page 2, delete lines 1 and 2, and substitute the following:

"in a conspicuous manner upon the premises of the trust property no more than thirty (30) days, nor later than ten (10) days before the sale.

(B) The third-party posting provider shall not be liable for any trespass in connection with the entry upon the trust property for the purpose of posting the required notice; and"

AND

Page 2, delete lines 12 and 13, and substitute the following:

"bring a judicial action to halt the sale or to make a claim that the sale of the trust property is voidable under this chapter."

AND

Page 2, delete lines 27 through 30, and substitute the following:

"(B)(i) Provided, however, that any such claim or defense, except a claim of lack of notice from a person entitled to notice, but not



given notice, shall be asserted prior to the sale or be forever barred and terminated.

(ii) Any claim or defense based upon the failure of the mortgagee or trustee to give notice as required under § 18-50-104 shall be asserted within one hundred eighty (180) days of the sale or be forever barred and terminated.

AND

Page 3, line 4, delete "shall be void" and substitute "may be voided"

AND

Page 3, delete lines 13 and 14, and substitute the following:

"(B) To have the sale of the trust property voided within one hundred eighty (180) days of the sale.

(3) If the sale is set aside for failure of the notice under subsection (f) of this section, the underlying mortgage or deed of trust, the performance of the obligations by the person described in the mortgage or deed of trust, the default and acceleration provisions, and all original priorities and liens shall be revived automatically by operation of law and reinstated as if no sale had occurred."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Hendren
EAN/VJF - 021120031224
VJF398

Secretary