

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.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003

A Bill

HOUSE BILL 2702

4
5 By: Representative Thyer
6
7

For An Act To Be Entitled

8
9 AN ACT CONCERNING ATTORNEYS' LIENS; AND FOR OTHER
10 PURPOSES.
11

Subtitle

12
13 AN ACT CONCERNING ATTORNEYS' LIENS.
14
15

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
17

18 SECTION 1. Arkansas Code § 16-22-304 is amended to read as follows:
19 16-22-304. Lien of attorney created.

20 (a)(1) From and after service upon the adverse party of a written
21 notice signed by the client and by the attorney at law, solicitor, or
22 counselor representing the client, which notice is to be served by certified
23 mail, a return receipt being required to establish actual delivery of the
24 notice, the attorney at law, solicitor, or counselor serving the notice upon
25 the adversary party shall have a lien upon his client's cause of action,
26 claim, or counterclaim, which attaches to any settlement, verdict, report,
27 decision, judgment, or final order in his client's favor, and the proceeds
28 thereof in whosoever's hands they may come.

29 (2) The lien cannot be defeated and impaired by any subsequent
30 negotiation or compromise by any parties litigant.

31 (3) However, the lien shall apply only to the cause or causes of
32 action specifically enumerated in the notice.

33 (b) In the event that the notice is not served upon the adverse party
34 by an attorney at law, solicitor, or counselor representing his client, the
35 same lien created in this section shall attach in favor of the attorney at
36 law, solicitor, or counselor from and after the commencement of an action or



1 special proceeding or the service upon an answer containing a counterclaim,
2 in favor of the attorney at law, solicitor, or counselor who appears for and
3 signs a pleading for his client in the action, claim, or counterclaim in
4 which the attorney at law, solicitor, or counselor has been employed to
5 represent the client.

6 (c) This lien shall apply to proceedings before the Workers'
7 Compensation Commission. The lien shall attach from the date a notice of
8 claim is filed with the commission, if served by certified mail, return
9 receipt requested, or from the date the commission mails notice of the claim
10 to the employer or carrier, regardless of whether this mailing by the
11 commission is by certified mail or regular mail, whichever date occurs
12 first.

13 (d)(1) This lien shall apply to procedures set forth in the Statutory
14 Foreclosure Act of 1987, §§ 18-50-101 – 18-50-116.

15 (2) The lien shall attach on the date a mortgagee's power of
16 attorney or beneficiary's appointment of substitute trustee is recorded
17 pursuant to § 18-50-102.

18 (3) If a mortgagee's power of attorney or beneficiary's
19 appointment of substitute trustee is not recorded, then the lien shall attach
20 on the date a notice of default and intention to sell is mailed in accordance
21 with § 18-50-104.

22 (4) The lien shall secure all work performed by the attorney for
23 the mortgagee or beneficiary including, but not limited to, expenses incurred
24 by the attorney for abstracting and title insurance services and giving
25 notice of the trustee's or mortgagee's sale.

26 ~~(d)~~(e) The court or commission before which an action was instituted,
27 or in which an action may be pending at the time of settlement, compromise,
28 or verdict, or in any ~~chancery~~ chancery circuit court of proper venue, upon the
29 petition of the client or attorney at law, shall determine and enforce the
30 lien created by this section.

31
32
33
34
35
36