

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

A Bill

HOUSE BILL 1817

5 By: Representatives Rushing, Gossage
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAWS CONCERNING THE REAL PROPERTY
9 TRANSFER TAX; TO CLARIFY THE LAWS CONCERNING THE REAL
10 PROPERTY TRANSFER TAX; AND FOR OTHER PURPOSES.
11

Subtitle

12 TO AMEND THE LAWS CONCERNING THE REAL
13 PROPERTY TRANSFER TAX; AND TO CLARIFY THE
14 LAWS CONCERNING THE REAL PROPERTY
15 TRANSFER TAX.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. DO NOT CODIFY. Legislative findings and intent.

23 (a) The General Assembly finds that:

24 (1) The real property transfer tax was imposed under Acts 1971,
25 No. 275, which, as amended, exempts from real property transfer taxes an
26 instrument given in a judicial proceeding to enforce a security interest in
27 real estate when the instrument transfers the property to the same person who
28 is seeking to enforce the security interest and an instrument given to a
29 secured party in lieu of or to avoid a judicial proceeding to enforce a
30 security interest in real estate under § 26-60-102(8) and (9);

31 (2) The Seventy-Sixth General Assembly passed the Statutory
32 Foreclosure Act of 1987 by Acts 1987, No. 53;

33 (3) It was the intent of the Seventy-Sixth General Assembly for
34 the exemption for real property transfer taxes under § 26-60-102(8) and (9)
35 to apply to both judicial foreclosures and nonjudicial foreclosures
36 authorized under Acts 1987, No. 53; and



1 (4) The practice, procedure, and understanding of lenders with
 2 mortgage loans on property in Arkansas has followed the intent of the
 3 Seventy-Sixth General Assembly since Acts 1987, No. 53, but this historical
 4 practice, procedure, and understanding has recently been challenged.

5 (b) The General Assembly intends to have Arkansas law match the
 6 historical practice, procedure, and understanding of lenders holding
 7 mortgages on property in the state over the last quarter century.

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 9 SECTION 2. Arkansas Code § 26-60-102(8) and (9), concerning transfers
 10 to which the real property transfer tax does not apply, are amended to read
 11 as follows:

12 (8) An instrument given in ~~any~~ a judicial proceeding or a
 13 nonjudicial proceeding under § 18-50-101 et seq. to enforce ~~any~~ a security
 14 interest in real estate when the instrument transfers the property to the
 15 same person who is seeking to enforce the security interest;

16 (9) An instrument given to a secured party in lieu of or to
 17 avoid a judicial proceeding or a nonjudicial proceeding under § 18-50-101 et
 18 seq. to enforce a security interest in real estate;