

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 721 of the Regular Session

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: S3/22/07

A Bill

SENATE BILL 907

5 By: Senator R. Thompson
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For An Act To Be Entitled

9 AN ACT TO AMEND THE STATUTORY FORECLOSURE ACT;
10 AND FOR OTHER PURPOSES.
11

Subtitle

12 TO AMEND THE STATUTORY FORECLOSURE ACT.
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16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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18 SECTION 1. Arkansas Code § 18-50-116 is amended to read as follows:
19 18-50-116. Miscellaneous provisions.

20 (a) The procedures set forth in this chapter for the foreclosure of a
21 mortgage or deed of trust shall not impair or otherwise affect the right to
22 bring a judicial action to foreclose a mortgage or deed of trust.

23 (b) A notice of default and intention to sell shall be filed within
24 the time the foreclosure of the mortgage or deed of trust by judicial action
25 could have been commenced.

26 (c) The procedures set forth in this chapter shall apply only if the
27 mortgagee or beneficiary is a mortgage company as defined in § 18-50-101 or
28 is a bank or savings and loan. This chapter shall not apply to a mortgage or
29 a deed of trust encumbering trust property used primarily for agricultural
30 purposes.

31 (d) Nothing in this chapter shall be construed to:

32 (1) Create an implied right of redemption in favor of any
33 person; or

34 (2)(A) Impair the right of any person or entity to assert his or
35 her legal and equitable rights in a court of competent jurisdiction.



1 (B) Provided, however, that any such claim or defense
2 shall be asserted prior to the sale or be forever barred and terminated,
3 except the mortgagor may assert the following against either the mortgagee or
4 trustee:

5 (1) Fraud; or

6 (2) Failure to strictly comply with the provisions of this act,
7 including but not limited to § 18-50-116(c).

8 (C)(i) Any of the above claims or defenses may not be
9 asserted against a subsequent purchaser for value of the property.

10 (ii) For purposes of this section, purchaser for
11 value shall not include the mortgagee or the trustee.

12 (e)(1) At any time prior to the delivery of the trustee's or
13 mortgagee's deed, the trustee or mortgagee shall be authorized to set aside a
14 sale conducted pursuant to this chapter by declaring the sale null and void
15 and returning the purchase price to the highest bidder without any further
16 liability to the bidder.

17 (2) In this event, the trustee or mortgagee shall file an
18 affidavit declaring the sale null and void with the recorder of the county in
19 which the trust property is located, and all terms and provisions of the
20 mortgage or deed of trust shall be revived and reinstated as if no sale had
21 occurred.

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23 /s/ R. Thompson

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25 APPROVED: 3/30/2007