

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 501 of the Regular Session

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H3/3/09

A Bill

HOUSE BILL 1392

5 By: Representatives Summers, Lindsey
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8 **For An Act To Be Entitled**

9 AN ACT CONCERNING PRIORITY OF LIENS IN MUNICIPAL
10 PROPERTY OWNERS' IMPROVEMENT DISTRICTS; AND FOR
11 OTHER PURPOSES.
12

13 **Subtitle**

14 CONCERNING PRIORITY OF LIENS IN
15 MUNICIPAL PROPERTY OWNERS' IMPROVEMENT
16 DISTRICTS.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 14-94-106 is amended to read as follows:

22 14-94-106. Hearing on petition and determination.

23 (a)(1)(A) *Upon the filing of the petition with the clerk, it shall be*
24 *the duty of the clerk to present the petition to the mayor.*

25 (B) The petition shall be accompanied by a certificate
26 from a title insurance company transacting business in the municipality:

27 (i) Stating that the signatures on the petition
28 constitute all of the owners of real property to be located in the district;
29 and

30 (ii) Identifying any mortgagee holding a first
31 mortgage lien on real property constituting more than ten percent (10%) in
32 area of the real property to be located in the district.

33 (2)(A) *The mayor shall thereupon set a date and time, not later*
34 *than fifteen (15) days after the date of the presentation of the petition to*
35 *the mayor, for a hearing before the governing body for consideration of the*



1 petition.

2 (B) Notice of the hearing shall be sent by certified mail
3 to any mortgagee holding a first mortgage lien on real property constituting
4 more than ten percent (10%) in area of the real property to be located in the
5 district.

6 (C) The notice of hearing under subdivision (a)(2)(B) of
7 this section shall state that without objection, the existing first lien is
8 subject to subordination under § 14-94-106.

9 (b)(1) At the hearing, it shall be the duty of the governing body to
10 hear the petition and to ascertain whether those signing the petition
11 constitute all the owners of the real property to be located in the *district*.

12 (2)(A) Except as provided in subdivision (b)(2)(B) of this
13 section, if ~~If~~ the governing body determines that all the owners of the real
14 property to be located in the district have petitioned for the improvements,
15 it shall then be its duty by ordinance to establish and lay off the district
16 as defined in the petition and to appoint the commissioners as named in the
17 petition if commissioners are named in the petition and are property owners
18 in or creditors of the district, or as is otherwise provided from among such
19 property owners or creditors.

20 (B) If at the hearing on the petition any mortgagee
21 holding a first mortgage lien on real property constituting more than ten
22 percent (10%) in area of the real property to be located within the district
23 objects to the formation of the district, then the governing body shall
24 reject the petition for creation of the district.

25 (3) The petition shall state the specific purposes for which the
26 district is to be formed, and the ordinance establishing the district shall
27 give it a name which shall be descriptive of the purpose. It shall also
28 receive a number to prevent its being confused with other districts for
29 similar purposes.

30 (c) The ordinance establishing the district shall be published within
31 thirty (30) days after its adoption by one (1) insertion in some newspaper of
32 general circulation in the municipality in which the district lies.

33 (d) The findings of the governing body shall be conclusive unless
34 attacked by a suit in the ~~chancery~~ chancery circuit court of the county in which the
35 municipality is located, brought within thirty (30) days after the
36 publication.

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/s/ Summers

APPROVED: 3/24/2009