

State of Arkansas

As Engrossed: S3/13/25

95th General Assembly

A Bill

Regular Session, 2025

HOUSE BILL 1271

By: Representative Warren

By: Senator C. Penzo

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING MECHANICS' AND
MATERIALMEN'S LIENS; TO CLARIFY THE PRIORITY OF LIENS
IN MORTGAGE CONSTRUCTION LOANS; AND FOR OTHER
PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING MECHANICS'
AND MATERIALMEN'S LIENS; AND TO CLARIFY
THE PRIORITY OF LIENS IN MORTGAGE
CONSTRUCTION LOANS.

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

SECTION 1. Arkansas Code § 18-44-110(b)(1), concerning lien attachment
and priority, is amended to read as follows:

(b)(1)(A) The liens for labor performed or materials or fixtures
furnished, as provided for in this subchapter, shall attach to the
improvement on which the labor was performed or the materials or fixtures
were furnished ~~in preference~~ subject to any encumbrance existing on the real
estate prior to the commencement of construction or repair of the
improvement.

(B)(i) In all cases in which the ~~prior~~ encumbrance was
given for the purpose of funding construction or repair of the improvement,
that lien shall have priority over all liens given by this subchapter.

(ii)(a) A person who acquires or intends to acquire
a mortgage or other security instrument that provides a security interest for
the purpose of funding construction or repair of the improvement may



1 conclusively rely on an affidavit made by a licensed appraiser, architect,
2 surveyor, or engineer if the licensed appraiser, architect, surveyor, or
3 engineer has inspected the property at a specified time and work had not been
4 commenced or materials placed at its site at the time of the inspection, if
5 the inspection occurs and the affidavit is filed within four (4) business
6 days before or within four (4) business days after the filing of the mortgage
7 or other security instrument that provides a security interest.

8 (b) When a mortgage or other security interest
9 for the purpose of funding construction or repair of the improvement will
10 encumber property on which a residential structure that is a single one-to-
11 four family unit is located or will be constructed, the person who made the
12 affidavit described in subdivision (b)(1)(B)(ii)(a) of this section may be an
13 employee or designee of the lender or licensed title agent.

14 (iii) The facts in an affidavit filed under
15 subdivision (b)(1)(B)(ii) of this section:

16 (a) Shall be considered true at the time of
17 the inspection; and

18 (b) Shall remain true at the time of the
19 filing of the mortgage or other security instrument that provides a security
20 interest.

21 (iv) The correctness of the facts contained in an
22 affidavit filed under subdivision (b)(1)(B)(ii) of this section shall not be
23 controverted to affect the priority of the rights of the person to whom or
24 for whom it is given, unless actual fraud by that person is proved.

25 (v) A person who provides a false affidavit under
26 subdivision (b)(1)(B)(ii) of this section shall be responsible for any loss
27 or damage suffered by a person whose rights are adversely affected.

28 (C) Notwithstanding subsection (a) of this section, in the
29 event that construction commences before the recordation of the mortgage or
30 other security instrument that provides a security interest for the purpose
31 of funding construction or repair of the improvement, only the liens for
32 providing labor, materials, or supplies before the recordation of the
33 mortgage or other security instrument that provides a security interest shall
34 have priority over the mortgage or other security instrument that provides a
35 security interest.

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/s/Warren

APPROVED: 4/8/25

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