

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 143 of the Regular Session**

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

# A Bill

HOUSE BILL 1028

5 By: Representative Woods  
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7

## For An Act To Be Entitled

9 AN ACT TO MODIFY THE POWER OF A MUNICIPALITY TO  
10 REGULATE UNSANITARY CONDITIONS; AND FOR OTHER  
11 PURPOSES.  
12

## Subtitle

13 TO MODIFY THE POWER OF A MUNICIPALITY TO  
14 REGULATE UNSANITARY CONDITIONS.  
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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20 SECTION 1. Arkansas Code § 14-54-903 is amended to read as follows:  
21 14-54-903. Refusal of owner to comply.

22 (a) As used in this section:

23 (1)(A) "Clean-up lien" means a lien securing the cost of work  
24 undertaken by a town or city to remove, abate, or eliminate a condition in  
25 violation of local codes or ordinances.

26 (B) A clean-up lien may have priority against other  
27 lienholders as provided in this section;

28 (2) "Court lien" means a lien securing the fines or penalties  
29 imposed by a court of competent jurisdiction against the owner of an unsafe  
30 and vacant structure or weed lot for failure to comply with applicable  
31 building codes that have been secured by a court lien by action of the local  
32 governing body;

33 (3) "Priority clean-up lien" means a clean-up lien for work  
34 undertaken by a city or town on an unsafe and vacant structure or weed lot  
35 that is given priority status over other lienholders following notice and



1 hearing;

2 (4) "Unsafe and vacant structure" means a structure located on  
3 previously platted and subdivided property that is not fit for human  
4 habitation and has been declared unsafe and vacant by the city or town in  
5 which it is located in violation of an applicable ordinance; and

6 (5) "Weed lot" means a previously platted and subdivided lot  
7 that is vacant or upon which an unsafe and vacant structure is located and  
8 that contains debris, rubbish, or grass which is higher than that permitted  
9 by local ordinance.

10 (b) If the owner or lienholder of any lot or other real property  
11 within an incorporated town or city ~~shall neglect or refuse~~ neglects or  
12 refuses to remove, abate, or eliminate any condition ~~as may be provided for~~  
13 under an ordinance passed by the city or town as provided ~~for~~ in § 14-54-901,  
14 after having been given seven (7) days' notice in writing to do so, then the  
15 town or city ~~is authorized to~~ may do whatever is necessary to correct the  
16 condition and to charge the cost thereof to the owner of the lots or other  
17 real property.

18 (c)(1) The town or city is given a lien against the property for the  
19 costs, including all administrative and collection costs.

20 (2) The town or city shall file the lien with the circuit clerk  
21 no later than one hundred twenty (120) days after the town or city completes  
22 the clean-up work on the property.

23 (3) The town or city may perfect its clean-up lien as a lien  
24 against the property if the property:

25 (A) Contains an unsafe and vacant structure; or

26 (B) Has been cited as a weed lot.

27 (4) The clean-up lien amount shall equal costs, including  
28 administrative costs, that the city or town incurs to help bring the property  
29 into compliance with local ordinances because the owner or lienholder failed  
30 to remove or repair an unsafe and vacant structure or failed to correct the  
31 conditions that caused the property to become a weed lot within the time  
32 required by the notice.

33 (5)(A) If a court of competent jurisdiction levies fines or  
34 penalties against the owner of an unsafe and vacant structure or weed lot for  
35 failure to comply with applicable building codes, then the local governing  
36 body, by majority vote, from time to time and subject to notice and hearing

1 provided by this section, may secure any outstanding court fines or penalties  
2 resulting from the owner's failure to clean up an unsafe and vacant structure  
3 or weed lot with a court lien against the property for the full value of all  
4 the outstanding fines and penalties.

5 (B) A court lien does not have first priority status over  
6 prior recorded liens and may be imposed in addition to clean-up liens.

7 (6)(A) Notices shall be sent by regular mail and by certified  
8 mail, return receipt requested.

9 (B) Notice to an owner ~~shall be~~ is sufficient if sent to  
10 the owner's address of record with the applicable county treasurer or  
11 collector.

12 (7)(A) If the city or town wishes to secure a priority clean-up  
13 lien, it shall provide seven (7) business days' notice to lienholders before  
14 undertaking any work at the property.

15 (B) Notice is sufficient if the notice is sent to the  
16 lienholder's address shown in the relevant land records.

17 (C) Cities and towns are not required to give notices to  
18 holders of unrecorded liens or to unrecorded assignees of lienholders.

19 (D) Any lienholder receiving notice under this section  
20 shall send, within seven (7) business days from receipt of the notice, a  
21 written response to the city or town indicating whether the owner of the  
22 property is in default under the terms of the note or mortgage.

23 (d) Any notice required under this section may be issued by a:

- 24 (1) Police officer employed by the city or town;
- 25 (2) City or town attorney; or
- 26 (3) Code enforcement officer employed by the city or town.

27 (e)(1)(A) After the work has been completed, the city or town shall  
28 provide second notice to the owner ~~and lienholders of record~~ of the total  
29 amount of the clean-up lien, including administrative and filing costs.

30 (B) If the city or town wishes to secure a priority clean-  
31 up lien after the work has been completed, it shall provide second notice to  
32 the lienholders of record of the total amount of the clean-up lien.

33 (2) Cities and towns are not required to give notice of court  
34 liens to prior lienholders.

35 (3) Notice of the amount of a clean-up lien or a court lien may  
36 be combined with the notice of the hearing before the governing body to

1 create and impose the clean-up lien or court lien.

2 (f) The amount of any clean-up lien or court lien provided in this  
 3 section may be determined at a public hearing before the governing body of  
 4 the city or town held after thirty (30) days' written notice by mail, return  
 5 receipt requested, to the owner of the property if the name and address of  
 6 the owner are known and to the lienholders of record.

7 (g) If the name of the owner cannot be determined, then the amount of  
 8 the clean-up lien or court lien shall be determined at a public hearing  
 9 before the governing body of the city or town only after publication of  
 10 notice of the hearing in a newspaper having a bona fide circulation in the  
 11 county where the property is located for one (1) insertion per week for four  
 12 (4) consecutive weeks.

13 (h)(1) The determination of the governing body confirming the amount  
 14 of any clean-up lien or court lien and creating and imposing any clean-up  
 15 lien or court lien under this section is subject to appeal by the property  
 16 owner or by any lienholder of record in the circuit court, filed within  
 17 forty-five (45) days after the determination is made.

18 (2) If the owner or lienholder fails to appeal in this time, the  
 19 lien amount ~~shall be deemed~~ is fully perfected and not subject to further  
 20 contest or appeal.

21 (i) The city or town shall file its lien with the circuit clerk no  
 22 later than sixty (60) days after the governing body of the city or town  
 23 confirms the lien amount, or if the lien is appealed, within sixty (60) days  
 24 after the city or town wins on appeal.

25 (j)(1) If the city or town wishes to secure a first-priority status  
 26 for any priority clean-up lien created and imposed ~~in accordance with~~ under  
 27 this section, it shall file an action with the circuit court within which the  
 28 property is located seeking a declaration that the clean-up lien is entitled  
 29 to priority over previously recorded liens and naming the holders of the  
 30 recorded liens as defendants.

31 (2) Priority status shall be awarded to the priority clean-up  
 32 lien with respect to any previously recorded lien if the court determines  
 33 that such lienholder has failed to exercise its rights to foreclose its lien  
 34 when the obligation it secures becomes in default or has failed to pay the  
 35 costs of work undertaken by a city or town that ~~comprise~~ compose the clean-up  
 36 lien. However, the amount as to which the clean-up lien shall have priority

1 shall be ~~such an amount as the court deems to be reasonable~~ the amount the  
2 court finds reasonable and, ~~in any event, shall be~~ is limited to:

3 (A) No more than one thousand dollars (\$1,000) for grass  
4 or weed cutting;

5 (B) No more than five thousand dollars (\$5,000) to board  
6 and secure the property;

7 (C) No more than seven thousand five hundred dollars  
8 (\$7,500) to demolish any structures on the property; or

9 (D) No more than fifteen thousand dollars (\$15,000) for  
10 environmental remediation.

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12 **APPROVED: 2/12/2009**  
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