

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.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H2/14/05

A Bill

HOUSE BILL 1348

5 By: Representatives Overbey, Medley, Pyle, Sample
6
7

For An Act To Be Entitled

9 AN ACT TO REMOVE REFERENCES TO THE MUNICIPAL
10 BOARD OF HEALTH IN CERTAIN SEWER STATUTES; AND
11 FOR OTHER PURPOSES.
12

Subtitle

14 AN ACT TO REMOVE REFERENCES TO THE
15 MUNICIPAL BOARD OF HEALTH IN CERTAIN
16 SEWER STATUTES.
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 14-235-301 is amended to read as follows:
22 14-235-301. Penalties.

23 ~~(a)(1) It is declared a misdemeanor for any person to injure, damage,~~
24 ~~destroy, or fail or refuse to connect with or tap the sewers of a~~
25 ~~municipality, within the time prescribed by an order of the municipal board~~
26 ~~of health, any sewer, public or private, made under the provisions of this~~
27 ~~act.~~

28 (a)(1) It is declared a misdemeanor for any person to:

29 (A) Injure, damage, or destroy any public sewer; or

30 (B) Fail or refuse to connect with or tap the sewers of a
31 municipality, within the time prescribed by an ordinance of the municipality.

32 (2)(A) Any person so offending, on conviction, shall be punished
33 by fine and imprisonment, or both, at the discretion of the court, in any sum
34 not more than five hundred dollars (\$500), and for a period not longer than
35 six (6) months.

36 (B)(i) An offender shall also be liable for all damages



1 which shall be found by the jury.

2 (ii) The sum so found, judgment shall be rendered in
3 favor of the municipality, and execution shall issue on it as on other
4 judgments at law.

5 (b)(1) A city council shall have power, by ordinance, to compel all
6 sewers built by private parties ~~or under the direction of the municipal board~~
7 ~~of health~~ to be kept clean and in repair, by fine and punishment of the party
8 in possession as owner or lessee of the property where the sewer may be
9 situated.

10 (2) The fine shall not exceed fifty dollars (\$50.00) for any one
11 (1) neglect, nor shall the imprisonment be more than ninety (90) days.

12

13 SECTION 2. Arkansas Code § 14-235-302 is amended to read as follows:

14 14-235-302. Ordering property owners to connect.

15 (a) After the completion of any sewer or branch sewer authorized to be
16 built under the provisions of this act, it shall be lawful for ~~the board of~~
17 ~~health of~~ any municipality to which this act is applicable, whenever, in
18 their opinion, the public health will be promoted by it, to order any one (1)
19 or more property owners near or adjacent to any sewer to construct upon their
20 property sewers leading from some point or place on their premises to the
21 sewer of the municipality for the purpose of:

22 (1) Draining off surface or other water; and

23 (2) Conducting any excrement that may be at or about the
24 premises and filth of every nature, character, and description into the
25 sewers belonging to the municipality.

26 (b) In the order issued to construct the sewers for the purpose
27 presented, the time within which they are to be completed, the nature and
28 character of the material to be used in the construction of them, and the
29 place of tapping the sewers of the municipality shall be designated, as well
30 as the manner of doing it.

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32 SECTION 3. Arkansas Code § 14-235-303 is amended to read as follows:

33 14-235-303. Refusal of owner to connect.

34 (a)(1) If the owner of property shall fail, neglect, or refuse to
35 connect the sewer as ordered in § 14-235-302, within the time prescribed in
36 the order, unless further time is granted for the completion of the sewer, it

1 shall be the duty of the ~~municipal board of health~~ municipality to cause the
2 sewer to be constructed, by contract or otherwise, in as economic and
3 substantial a manner as may be practicable.

4 (2) For that purpose, the ~~board~~ municipality is authorized to
5 enter upon, by its agents, contractors, and employees, any property on which
6 they may order a sewer to be constructed, doing as little damage as possible.

7 (b)(1) When the construction shall have been completed and the cost
8 ascertained, it shall become a charge and lien upon the property.

9 (2)(A) The ~~board~~ municipality is authorized and empowered to
10 institute suit in any court having jurisdiction to enforce liens against real
11 property, in the manner designated in § 14-90-1002 for the commencement of
12 suits by the board of improvement, for the purpose of making the property
13 chargeable for the lien provided in this section and the amount of the
14 construction of the sewer, together with twenty percent (20%) penalty for
15 noncompliance with the order of the ~~board~~ municipality.

16 (B)(i) When a decree shall have been obtained, the
17 property shall be ordered sold in the manner provided in §§ 14-90-1101 - 14-
18 90-1108 and 14-90-1201 - 14-90-1204 for the sale of property.

19 (ii) All appeals from decrees to the Supreme Court
20 of Arkansas or the Arkansas Court of Appeals rendered against property under
21 this section shall be prosecuted within the time and under the restrictions
22 and limitations set forth in this act, and no injunction shall be issued by
23 any court restraining the building of any sewer ordered by the ~~board~~
24 municipality.

25 (c)(1) All notices and summons required in this section shall be
26 served in the manner provided in § 14-90-1003, against resident as well as
27 nonresident owners of property; and

28 (2)(A) The court shall be open, as stated in § 14-90-1001;

29 (B) The same preference shall be given to suits commenced
30 under this section; and

31 (C) The same summary mode of proceeding shall be adopted
32 in pleading and in all matters relating to the enforcement of the lien.

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34 /s/ Overbey, et al
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