

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 87th General Assembly  
3 Regular Session, 2009

# A Bill

HOUSE BILL 1392

4  
5 By: Representatives Summers, Lindsey  
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## For An Act To Be Entitled

8  
9 AN ACT CONCERNING PRIORITY OF LIENS IN MUNICIPAL  
10 PROPERTY OWNERS' IMPROVEMENT DISTRICTS; AND FOR  
11 OTHER PURPOSES.  
12

### Subtitle

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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) Upon the filing of the petition with the clerk, it shall be the  
24 duty of the clerk to present the petition to the mayor.

25 (2)(A) The mayor shall thereupon set a date and time, not later  
26 than fifteen (15) days after the date of the presentation of the petition to  
27 the mayor, for a hearing before the governing body for consideration of the  
28 petition.

29 (B) Notice of the hearing shall be published two (2) times  
30 in a newspaper of general circulation in the municipality in which the  
31 district lies.

32 (b)(1) At the hearing, it shall be the duty of the governing body to  
33 hear the petition and to ascertain whether those signing the petition  
34 constitute all the owners of the real property to be located in the district  
35 and whether a single mortgagee holds one (1) or more mortgages on a  
36 substantial portion of the real property to be located in the district.



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

9           (B) If the governing body determines that a single  
10 mortgagee holds one (1) or more mortgages on a substantial portion of the  
11 real property to be located in the district, and that the district should not  
12 be formed because of the interests of the mortgage holder, then the governing  
13 body shall reject the petition for creation of the district.

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

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

23           (2) The ordinance also shall be mailed by first class mail to  
24 all prior mortgage holders of real property in the district.

25           (d)(1) The findings of the governing body shall be conclusive unless  
26 attacked by a suit in the ~~chancery~~ chancery circuit court of the county in which the  
27 municipality is located, brought within thirty (30) days after the  
28 publication.

29           (2) If a mortgagee encumbers a substantial portion of the real  
30 property included in the district, the mortgagee shall have the right to file  
31 suit to object to the formation of the district.

32  
33           SECTION 2. Arkansas Code § 14-94-118 is amended to read as follows:  
34           14-94-118. Levy of tax.

35           (a)(1) At the same time that the assessment of benefits is equalized  
36 or at any time thereafter, the board shall enter upon its records an order,

1 which shall have all the force of a judgment, providing that there is levied  
2 upon the real property of the district a tax sufficient to pay the estimated  
3 cost of the improvement with ten percent (10%) added for unforeseen  
4 contingencies.

5 (2) The tax is to be paid by the real property owners in the  
6 district in the proportion to the amount of the assessment of benefits  
7 thereon and is to be paid in annual installments, as provided in the order.

8 (b) The tax so levied shall be a lien upon all the real property in  
9 the district from the time it is levied, shall be entitled to preference over  
10 all demands, executions, encumbrances, or liens whenever created, other than  
11 a lien given to finance the purchase of real property within the district,  
12 and shall continue until the assessment, with any penalty costs that may  
13 accrue thereon, shall have been paid. Provided, however, with the prior  
14 written approval of the board, the county clerk shall release from the lien  
15 for the assessment and tax any lot, block, or tract with respect to which the  
16 assessment and tax shall have been paid or prepaid.

17 (c)(1) Promptly after entry of an order levying the tax, the board  
18 shall publish at least one (1) time in some newspaper having general  
19 circulation in the municipality a notice setting forth the order of levy and  
20 warning all persons affected by it that the order shall become final unless  
21 suit is brought to contest the order within thirty (30) days of the date of  
22 first publication of the notice; and

23 (2) No property owner shall be barred from contest of the levy  
24 within the thirty-days' publication period.

25 (d)(1) The remedy against such levy of taxes shall be by suit in  
26 chancery circuit court.

27 (2) The suit must be brought within thirty (30) days from the  
28 time of notice that the levy was made, and, on the appeal, the presumption  
29 shall be in favor of the legality of the tax.

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31 SECTION 3. Arkansas Code § 14-94-122(e)(3), concerning the enforcement  
32 of the payment of taxes of the district, is amended to read as follows:

33 (3) This law shall be liberally construed to give to the  
34 assessment and tax lists the effect of bona fide mortgage for a valuable  
35 consideration, and a first lien upon the lands, as against all persons having  
36 an interest therein, other than the holder of a lien given to finance the

1 purchase of real property within the district.

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