

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.

INTERIM STUDY PROPOSAL 2009-074

State of Arkansas
87th General Assembly
Regular Session, 2009

A Bill

HOUSE BILL 2218

By: Representative Carroll

Filed with: House Interim Committee on Public Health, Welfare and Labor
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO PROVIDE RESIDENTIAL TENANTS RELIEF FROM
FORECLOSURE AND EVICTION PROCEEDINGS; TO STAY
EVICTION PROCEDURES FOR NINETY (90) DAYS
FOLLOWING A RESIDENTIAL FORECLOSURE IF A TENANT
IS CURRENT IN PAYING RENT; TO REQUIRE GOOD FAITH
NEGOTIATIONS WITH THE TENANT FOR THE PURCHASE OF
THE PROPERTY; AND FOR OTHER PURPOSES.

Subtitle

TO PROVIDE RESIDENTIAL TENANTS RELIEF
FROM FORECLOSURE AND EVICTION
PROCEEDINGS.

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

SECTION 1. Arkansas Code Title 18, chapter 16, subchapter 1 is amended
to add an additional section to read as follows:

18-16-113. Stay of eviction after residential foreclosure.

(a) Upon satisfactory proof that a tenant is not in default under a
lease of residential real property, the tenant may not be evicted from the
property under a law of this state for ninety (90) days following a
foreclosure sale of the residential real property unless the tenant:

(1) Fails to pay the monthly rent when due to the successful
bidder at the foreclosure sale; or



(2) Causes permanent harm to the property.

(b)(1) If the property was sold to the foreclosing lien creditor, then the tenant and lien creditor shall negotiate a potential sale of the property to the tenant.

(2) If the lien creditor does not negotiate with the tenant in good faith, then the tenant is entitled to remain in possession of the property by continuing to pay or tendering payment of the monthly rent to the lien creditor.

SECTION 2. Arkansas Code § 18-50-107(e), concerning the possession of property after a statutory foreclosure sale, is amended to read as follows:

(e)(1) Except as provided in § 18-16-113:

(A) The purchaser at the sale shall be entitled to immediate possession of the property;

~~(2)(A)(B)~~ Possession of the property may be obtained by filing;

(i) a complaint in the circuit court of the county in which the property lies and attaching a copy of the recorded trustee's or mortgagee's deed, whereupon the purchaser shall be entitled to an ex parte writ of assistance; or

~~(ii) Alternatively, the purchaser may bring an~~ An action for forcible entry and detainer pursuant to under § 18-60-301 et seq.;
and

~~(C) In either event,~~ An action for possession under this subdivision (e)(1) is subject to the provisions of § 18-50-116(d) shall apply.

(2) If a tenant who is not in default under a residential lease of the property is in possession of the property, the purchaser at the sale is not entitled to possession of the property until the requirements of § 18-16-113 are satisfied.