

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

HOUSE BILL

1479

By: Representative Wilson

For An Act To Be Entitled

"AN ACT TO AMEND ARKANSAS CODE §§18-50-101, 18-50-102,  
18-50-105 AND 18-50-116 TO CLARIFY THE STATUTORY FORECLOSURE  
PROCEDURES; AND FOR OTHER PURPOSES."

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

SECTION 1. Arkansas Code §18-50-101(4) is hereby amended to read as follows:

"(4) 'Trustee' means any person or legal entity to whom legal title to real property is conveyed by deed of trust, or his successor in interest;"

SECTION 2. Arkansas Code §18-50-102(a) is hereby amended to read as follows:

"(a) A trustee of a deed of trust shall be any:

(1) Attorney who is an active licensed member of the Bar of the Supreme Court of the state of Arkansas or law firm among whose members includes such an attorney;

(2) Bank or savings and loan association authorized to do business under the laws of Arkansas or those of the United States;

(3) Corporation authorized to conduct a trust business in Arkansas or the United States; or

(4) Agency or authority of the state of Arkansas where not otherwise prohibited by law."

SECTION 3. Arkansas Code §18-50-105 is hereby amended to read as follows:

"18-50-105. Publication of notice. The mortgagee or trustee shall publish the notice in a newspaper of general circulation in the county in which the trust property is situated or in a newspaper of general statewide

daily publication once a week for four (4) consecutive weeks prior to the date of sale. The final publication shall be no more than ten (10) days prior to the sale."

SECTION 4. Arkansas Code §18-50-116(c) is hereby amended to read as follows:

"(c) The procedures set forth in this chapter shall apply only if the mortgagee or beneficiary is a mortgage company as defined in §18-50-101 or is a bank or savings and loan. This chapter shall not apply to a mortgage or a deed of trust encumbering trust property used primarily for agricultural purposes."

SECTION 5. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 6. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 7. EMERGENCY. It is hereby found and determined by the General Assembly that there exists certain inconsistencies in the language of the statutory foreclosure procedures found in Arkansas Code §18-50-101 et seq. which create some confusion in the process of foreclosure whereby this act will more clearly address the needs of the public. Therefore, an emergency is hereby declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

