

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

A Bill

HOUSE BILL 1087

4
5 By: House Interim Committee on Insurance and Commerce
6 By: Senate Interim Committee on Insurance and Commerce

For An Act To Be Entitled

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8
9 "AN ACT TO REENACT ARKANSAS CODE 23-32-1501 ET SEQ.,
10 PERTAINING TO FOREIGN INVESTOR COMPANIES; AND FOR OTHER
11 PURPOSES."

Subtitle

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13
14 "TO REENACT ARKANSAS CODE PERTAINING TO
15 FOREIGN INVESTOR COMPANIES."

16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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19 SECTION 1. Definition.

20 As used in this act, unless the context otherwise requires, "investor
21 companies" means all banks, mutual savings associations, mutual savings banks,
22 mutual savings fund societies, trust funds, foundations, pension trusts, or
23 lending agencies, all the capital stock of which is owned by one (1) or more
24 mutual savings banks or mutual savings fund societies.

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26 SECTION 2. Application.

27 No provision in this act shall apply to any corporation except those
28 corporations included in § 1.

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30 SECTION 3. Transactions not considered engaging in business.

31 Without excluding other activities which may not constitute transaction
32 of, or engaging in, business in this state, investor companies which are
33 engaged in investing in loans secured by real estate and which are not
34 chartered or domesticated in this state and do not engage in a general banking
35 business in this state shall not be considered to be transacting or engaging
36 in business in this state under the law of this state by reason of carrying on

1 in this state any one (1) or more of the following activities:

2 (1) The acquisition of, or participation in, loans secured by mortgages
 3 or deeds of trust on real property situated in Arkansas pursuant to commitment
 4 arrangements or agreements made prior to or following the origination or
 5 creation of the loans;

6 (2) The ownership, modification, renewal, extension, transfer, or
 7 foreclosure of such loans, or the acceptance of substitute or additional
 8 obligors thereon;

9 (3) The maintaining or defending of actions or suits relative to such
 10 loans, mortgages, or deeds of trust;

11 (4) The maintenance of bank accounts in Arkansas in connection with the
 12 collection or servicing of such loans;

13 (5) The making, collection, and servicing of such loans through an
 14 Arkansas agent or agency engaged in the business of servicing real estate
 15 loans for investors;

16 (6) The taking of deeds to the mortgaged property either in lieu of
 17 foreclosure or for the purpose of transferring title either to the Federal
 18 Housing Administration, the Department of Veterans Affairs, or other
 19 governmental agency;

20 (7) The acquisition of title to property under foreclosure sale or from
 21 the owner in lieu of foreclosure;

22 (8) The management, rental, maintenance, and sale or the operating,
 23 maintaining, renting, or otherwise dealing with, selling, or disposing of real
 24 property acquired under foreclosure sale or by agreement in lieu thereof;

25 (9) The physical inspection and appraisal of property in Arkansas as
 26 security for deeds of trust or mortgage negotiations for the purchase of such
 27 loans.

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29 SECTION 4. Consent to service of process on Secretary of State.

30 All investor companies, except national banking institutions and state-
 31 chartered banks subject to federal regulation, acting either in their own
 32 behalf or acting as trustee for trust funds, foundations, pension funds, or
 33 related investors, must, before purchasing mortgage notes, mortgages, or deeds
 34 of trust, file a statement with the Secretary of State of the State of
 35 Arkansas constituting him as their agent for service. The statement shall
 36 contain the address of the investor company and shall be signed by the

1 president, secretary, general manager, trustee, or other person charged with
 2 the administration of the funds of the investor company. It shall be the duty
 3 of the Secretary of State, upon service of process, to forward all such
 4 process forthwith by registered mail to the address shown on the statement of
 5 the appropriate investor company.

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7 SECTION 5. Authority to sue and be sued.

8 The investor companies may sue or be sued in this state in relation to
 9 the mortgage notes, mortgages, or deeds of trust, and service may be had on
 10 the Secretary of State when an investor company is a defendant. The venue of
 11 the actions shall be in the county of the residence of any party to the suit,
 12 unless otherwise provided by law, except that where land is involved, the
 13 venue shall be in the county where the land or any part of it is located.

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15 SECTION 6. Transaction of general business not authorized.

16 Nothing in this act shall be construed as authorizing investor companies to
 17 transact the general business of a chartered bank or trust company, or any
 18 business in this state, except as herein provided.

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20 SECTION 7. All provisions of this act of a general and permanent nature
 21 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
 22 Revision Commission shall incorporate the same in the Code.

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24 SECTION 8. If any provision of this act or the application thereof to
 25 any person or circumstance is held invalid, such invalidity shall not affect
 26 other provisions or applications of the act which can be given effect without
 27 the invalid provision or application, and to this end the provisions of this
 28 act are declared to be severable.

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30 SECTION 9. All laws and parts of laws in conflict with this act are
 31 hereby repealed.

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33 SECTION 10. EMERGENCY. It is hereby found and determined by the
 34 General Assembly that the Arkansas Banking Act of 1997 goes into effect on May
 35 31, 1997; that the law addressed by this act was repealed by the Arkansas
 36 Banking Act of 1997 for technical purposes; that this act will reenact that

1 law with necessary changes; and that this act must go into effect on May 31,
2 1997, in order to correlate with the Banking Act of 1997. Therefore an
3 emergency is declared to exist and this act being immediately necessary for
4 the preservation of the public peace, health and safety shall be in full force
5 and effect from and after May 31, 1997.

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