

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999

A Bill

HOUSE BILL 1915

4
5 By: Representative L. Thomas

For An Act To Be Entitled:

8 "AN ACT TO ALLOW A FEED MILL OR OTHER SELLER OF
9 COMMERCIAL FISH FEED TO FILE A LIEN ON FARM RAISED
10 FISH; AND FOR OTHER PURPOSES."

Subtitle

13 "AN ACT TO ALLOW A FEED MILL OR OTHER
14 SELLER OF COMMERCIAL FISH FEED TO FILE A
15 LIEN ON FARM RAISED FISH."

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

19
20 SECTION 1. As used in this act:

21 (1) "Farm Raised Fish" or "Fish" means catfish, bait fish, tilapia,
22 bass, and other farm raised fish raised or produced for commercial or
23 recreational purposes; and

24 (2) "Fish Feed" means feed commercially manufactured and sold for
25 consumption by farm raised fish.

26
27 SECTION 2. At anytime within six (6) months after the purchase of fish
28 feed, a seller of fish feed may file a lien upon any farm raised fish owned by
29 the purchaser or user of the fish feed. The lien shall attach at the time it
30 is filed in accordance with this Act and shall not be lost or discharged by
31 reason of any sale, exchange, removal from the county, or other disposition,
32 except as provided in this act.

33
34 SECTION 3. A seller of fish feed desiring to perfect the lien provided
35 for by this act shall file a written verified statement of account with the
36 circuit clerk in the county or counties where the fish are located setting

1 forth the name of the purchaser, the name of the user of the feed if it be
2 different from the purchaser, the amount of the claim, and a description and
3 location of the fish owned by the purchaser or user upon which a lien is
4 claimed.

5
6 SECTION 4. When farm raised fish on which a lien exists have been sold,
7 transferred, or disposed of before the lien has been satisfied or released,
8 the purchaser thereof, with constructive notice of the lien, shall be liable
9 to the amount of the lien, or so much thereof as may be necessary to satisfy
10 the lien.

11
12 SECTION 5. (a) In the event any person claiming a lien shall file such a
13 lien, within the time and in the manner required by this act with the circuit
14 clerk or other officer provided by law for the filing of liens and if the
15 owner of the fish or other person having an interest therein, or other person
16 liable for the payment of such liens shall desire to contest the lien, then
17 the person desiring to contest the lien may file with the circuit clerk or
18 other officer with whom the lien is filed as required by law a bond with
19 surety, to be approved by the officer in double the amount of the lien
20 claimed. The bond shall be conditioned for the payment of the amount of the
21 lien, or so much thereof as may be established by suit, together with interest
22 and the costs of the action, if upon trial it shall be found that the fish
23 were subject to the lien.

24 (b) Upon the filing of the bond, if the circuit clerk or other officer
25 before whom it is filed approves the surety, he shall give to the person
26 claiming the lien, at his last known address, five (5) calendar days notice of
27 the filing of the bond. The notice shall be in writing sent by certified mail
28 with return receipt requested. Within that time, the person claiming the lien
29 may appear and question the sufficiency of the surety or form of the bond. At
30 the expiration of five (5) days, if the person claiming the lien shall not
31 have questioned the sufficiency of the bond or surety or if the clerk finds
32 that same to be sufficient, the clerk shall note the filing of the bond upon
33 the margin of the lien record; the lien thereof shall thereupon be discharged
34 and the claimant shall have recourse only against the principal and surety
35 upon the bond.

36 (c) If no action to enforce the lien shall be filed within the time

1 prescribed by law for the enforcement of liens against the surety, the bond
2 shall be null and void, but, if any action shall be timely commenced, the
3 surety shall be liable in like manner as the principal.

4 (d) If the clerk shall determine that the bond tendered is
5 insufficient, the person tendering the bond shall have twenty-four (24) hours
6 within which to tender a sufficient bond, and, unless a sufficient bond shall
7 be so tendered, the lien shall remain in full force and effect.

8 (e) Any party aggrieved by the acceptance or rejection of the bond may
9 apply to any court of competent jurisdiction by an action which is
10 appropriate. The court shall have jurisdiction to enter an interlocutory
11 order, upon notice as required by law, as may be necessary for the protection
12 of the parties by requiring additional security for the bond, by reinstating
13 the lien in default thereof, pending trial and hearing, or by requiring
14 acceptance of the bond as may be necessary for the protection of the parties.

15
16 SECTION 6. All liens created by virtue of this act may be enforced in a
17 court of competent jurisdiction of any county where any of the fish on which
18 the lien is attached are situated. Any person having a lien may enforce it in
19 the chancery court without regard to the amount of the lien.

20
21 SECTION 7. All actions to enforce any lien created under this act shall
22 be commenced within twelve (12) months after filing the lien and prosecuted
23 without unnecessary delay to final judgment. No lien shall continue to exist
24 by virtue of the provisions of this Act for more than twelve (12) months after
25 the lien is filed, unless within that time an action shall be instituted as
26 described in this Act.

27
28 SECTION 8. Any sale, exchange, removal, or disposition of farm raised
29 fish subject to a lien filed pursuant to this act without the consent of the
30 person holding a perfected lien or without first securing the discharge of the
31 lien in the manner prescribed in Section 5 of this act, shall constitute
32 intent to defraud the lien holder, and the owner of the fish shall be guilty
33 of a Class A misdemeanor.

34
35 SECTION 9. All provisions of this act of a general and permanent nature
36 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code

1 Revision Commission shall incorporate the same in the Code.

2

3 SECTION 10. If any provision of this act or the application thereof to
4 any person or circumstance is held invalid, such invalidity shall not affect
5 other provisions or applications of the act which can be given effect without
6 the invalid provision or application, and to this end the provisions of this
7 act are declared to be severable.

8

9 SECTION 11. All laws and parts of laws in conflict with this act are
10 hereby repealed.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36