

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 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: S3/1/07
A Bill

SENATE BILL 372

5 By: Senators Brown, Steele, Madison, Wilkins
6 By: Representatives D. Johnson, Adcock, Webb, Allen, T. Baker, Chesterfield, Davis, J. Johnson,
7 Rainey, Overbey
8
9

10 **For An Act To Be Entitled**

11 AN ACT TO GRANT CITIES AND TOWNS ADDITIONAL TOOLS
12 TO DEAL WITH CRIMINAL, NUISANCE, AND VACANT
13 PROPERTIES; AND FOR OTHER PURPOSES.
14

15 **Subtitle**

16 AN ACT TO GRANT CITIES AND TOWNS
17 ADDITIONAL TOOLS TO DEAL WITH CRIMINAL,
18 NUISANCE, AND VACANT PROPERTIES.
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code § 14-54-903 is amended to read as follows:
24 14-54-903. Refusal of owner to comply.

25 (a) As used in this section:

26 (1)(A) "Clean up lien" means a lien securing the cost of work
27 undertaken by a town or city to remove, abate, or eliminate a condition in
28 violation of local codes.

29 (B) A clean up lien may or may not have priority against
30 other lienholders;

31 (2) "Court lien" means a lien securing the fines or penalties
32 imposed by a court of competent jurisdiction against the owner of an unsafe
33 and vacant structure or weed lot for failure to comply with applicable
34 building codes which have been secured by a court lien by action of the local
35 governing body;

36 (3) "Priority clean up lien" means a clean up lien for work



1 undertaken by a city or town on an unsafe and vacant structure or weed lot,
2 that is given priority status over other lienholders following notice and
3 hearing;

4 (4) "Unsafe and vacant structure" means a structure that has
5 been declared unsafe and vacant by the city or town in which it is located in
6 violation of applicable ordinance; and

7 (5) "Weed lot" means a vacant lot or a lot containing an unsafe
8 and vacant structure, that contains debris, rubbish, or grass which is higher
9 than that permitted by local ordinance.

10 ~~(a)~~(b) If the owner or lienholder of any lot or other real property
11 within an incorporated town or city shall neglect or refuse to remove, abate,
12 or eliminate any condition as may be provided for under an ordinance passed
13 by the city or town as provided for in § 14-54-901, after having been given
14 seven (7) days' notice in writing to do so, then the town or city is
15 authorized to do whatever is necessary to correct the condition and to charge
16 the cost thereof to the owner of the lots or other real property.

17 ~~(b)(1)~~(c)(1) The town or city is given a lien against the property for
18 the costs, including all administrative and collection costs.

19 (2) The town or city shall file the lien with the circuit clerk
20 no later than one hundred twenty (120) days after the town or city completes
21 the clean-up work on the property.

22 (3) The town or city may perfect its clean up lien as a first
23 priority clean up lien against the property if the property:

24 (A) Contains an unsafe and vacant structure; or

25 (B) Has been cited as a weed lot.

26 (4) The priority clean up lien amount shall equal costs,
27 including administrative costs, that the city or town incurs to help bring
28 the property into compliance with local ordinances because the owner and
29 lienholder failed to remove or repair an unsafe and vacant structure or
30 failed to correct the conditions that caused the property to become a weed
31 lot within the time required by the notice.

32 (5)(A) If a court of competent jurisdiction levies fines or
33 penalties against the owner of an unsafe and vacant structure or weed lot for
34 failure to comply with applicable building codes, then the local governing
35 body, by majority vote, from time to time, and subject to notice and hearing
36 provided by this section, may secure any outstanding court fines or penalties

1 resulting from the owner's failure to clean up an unsafe and vacant structure
2 or weed lot with a court lien against the property for the full value of all
3 the outstanding fines and penalties.

4 (B) A court lien does not have first priority status over
5 prior, recorded liens and may be imposed in addition to clean up liens.

6 (6)(A) Notices shall be sent by regular mail and by certified
7 mail, return receipt requested.

8 (B) Notice to owners shall be sufficient if sent to the
9 owner's address of record with the applicable county treasurer.

10 (7)(A) If the city or town wishes to secure a first priority
11 clean up lien, it shall provide seven (7) days' notice to lienholders before
12 undertaking any work at the property.

13 (B) Notice is sufficient if the notice is sent to the
14 lienholder's address shown in the relevant land records.

15 (C) Cities and towns are not required to give notices to
16 holders of unrecorded liens or to unrecorded assignees of lienholders.

17 ~~(e)(d)~~ The notice Any notice required under this section may be issued
18 by a:

19 (1) Police officer employed by the city or town;

20 (2) City or town attorney; or

21 (3) Code enforcement officer employed by the city or town.

22 (e)(1) After the work has been completed, the city or town shall
23 provide second notice to the owner of the total amount of the clean up lien,
24 including administrative and filing costs.

25 (2) If the city or town wishes to secure first priority status
26 of its clean up lien, notice must also be provided to the lienholders of
27 record.

28 (3) Cities and towns are not required to give notice of court
29 liens to prior lienholders.

30 (4) Notice of the amount of a clean up lien or a court lien may
31 be combined with the notice of the hearing before the governing body to
32 confirm the lien.

33 (f)(1) The amount of any clean up lien or court lien provided in this
34 section may be determined at a public hearing before the governing body of
35 the city or town held after thirty (30) days' written notice by mail, return
36 receipt requested, to the owner of the property if the name and address of

1 the owner are known.

2 (2) If the city or town wishes to secure a first priority clean
3 up lien on a property, notice thereof shall also be sent to the address of
4 record of any lienholder with a lien previously recorded against the property
5 in the county land records.

6 (g) If the name of the owner cannot be determined, then the amount of
7 the lien shall be determined at a public hearing before the governing body of
8 the city or town only after publication of notice of the hearing in a
9 newspaper having a bona fide circulation in the county where the property is
10 located for one (1) insertion per week for four (4) consecutive weeks.

11 (h)(1) The determination of the governing body confirming the
12 existence, amount and priority of any lien under this section is subject to
13 appeal by the property owner or by the lienholder of record in the circuit
14 court, filed within forty-five (45) days after the determination is made.

15 (2) If the owner or lienholder fails to appeal in this time, the
16 lien amount and priority shall be deemed fully perfected and not subject to
17 further contest or appeal.

18 (i) The city or town shall file its lien with the
19 circuit clerk no later than sixty (60) days after the governing body of the
20 city or town confirms the lien amount, or if the lien is appealed, within
21 sixty (60) days after the city or town wins on appeal.

22
23 SECTION 2. Arkansas Code § 14-54-904(a), concerning enforcement and
24 collection of liens, is amended to read as follows:

25 (a) The ~~lien~~ liens provided for in § 14-54-903 may be enforced and
26 collected at any time within ten (10) years after the lien has been filed in
27 either one (1) of the following manners:

28 (1) ~~At any time within three (3) years after work has been done,~~
29 ~~by an action in the circuit court~~ By an action for foreclosure in the circuit
30 court by the city or town, or if the city or town has established a land
31 bank, by a land bank that has been assigned the lien; or

32 ~~(2)(A)(i)(a) The amount of the lien provided in § 14-54-903 may~~
33 ~~be determined at a hearing before the governing body of the municipality held~~
34 ~~after thirty (30) days' written notice by mail, return receipt requested, to~~
35 ~~the owner of the property if the name and address of the owner are known.~~

36 ~~(b) If the name of the owner cannot be determined, then the amount~~

1 ~~will be determined only after publication of notice of the hearing in a~~
2 ~~newspaper having a bona fide circulation in the county where the property is~~
3 ~~located for one (1) insertion per week for four (4) consecutive weeks.~~

4 ~~(ii) The determination of the governing body is~~
5 ~~subject to appeal by the property owner in the circuit court.~~

6 ~~(B)(i)~~ (2)(A) The amount so determined at the hearing,
7 plus ten percent (10%) penalty for collection, shall be certified by the
8 governing body of the municipality to the tax collector of the county where
9 the municipality is located, and placed by him or her on the tax books as
10 delinquent taxes and collected accordingly.

11 ~~(i)(B)~~ The amount, less three percent (3%) thereof, when
12 so collected shall be paid to the municipality by the county tax collector.

13
14 /s/ Brown
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36