

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: H4/1/13

A Bill

SENATE BILL 1137

5 By: Senator R. Thompson
6 By: Representative *Broadaway*
7

For An Act To Be Entitled

9 AN ACT TO REGULATE DOCUMENTS CONCERNING REAL
10 PROPERTY; TO ALLOW SCRIVENER'S AFFIDAVITS TO CORRECT
11 ERRORS IN INSTRUMENTS AFFECTING REAL PROPERTY; AND
12 FOR OTHER PURPOSES.
13

Subtitle

16 TO REGULATE DOCUMENTS CONCERNING REAL
17 PROPERTY; TO ALLOW SCRIVENER'S AFFIDAVITS
18 TO CORRECT ERRORS IN INSTRUMENTS
19 AFFECTING REAL PROPERTY.
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code Title 18, Chapter 12, Subchapter 1, is
25 amended to add an additional section to read as follows:

26 18-12-108. Scrivener's affidavits – Definition.

27 (a) As used in this section, "scrivener's affidavit" means a sworn and
28 acknowledged affidavit relating to:

29 (1) The identification, marital status, heirship, relation,
30 death, or the time of death of a person who is a party to an instrument
31 affecting the title to real property;

32 (2) The identification of a corporation or other legal entity
33 that is a party to an instrument affecting the title to real property; or

34 (3) The legal description to real property.

35 (b) A scrivener's affidavit may be executed and recorded by a:

36 (1) Licensed attorney who prepared the original instrument;



1 (2) Licensed attorney who represents a party to the original
2 instrument;

3 (3) Party to the original instrument if the party prepared the
4 original instrument; or

5 (4) Current employee of a title company that completed the form
6 of the original instrument.

7 (c) A scrivener's affidavit shall:

8 (1) Be sworn to and acknowledged before a person authorized to
9 administer an oath under the laws of this state;

10 (2) Conspicuously identify in its title that it is a
11 "Scrivener's Affidavit"; and

12 (3) Contain the following information concerning the original
13 instrument:

14 (A) The name of the person or entity that completed or
15 prepared the original instrument;

16 (B) The names of all parties to the original instrument;

17 (C) The recording information, including the recording
18 date of the original instrument; and

19 (D) A brief description of each error that the scrivener's
20 affidavit is designed to correct.

21 (d) A scrivener's affidavit may be prepared in substantially the
22 following form:

23
24 SCRIVENER'S ERROR AFFIDAVIT

25
26 KNOW ALL PERSONS BY THESE PRESENTS that:

27
28 [Name] prepared or completed the form of a [Type of instrument]
29 with regard to a conveyance from [Name(s)] as [grantor,
30 mortgagor, etc.] to [Name(s)] as [grantee,
31 mortgagee, etc.]. The [Type of instrument] which was
32 recorded in the records of _____ County, Arkansas, on [Date] ,
33 as Instrument Number [in Book at Page] contained a
34 scrivener's error with regard to the [reason for correction(s)] .

35
36 The aforementioned [Type of instrument] should reflect that the

1 [Type of instrument] read as follows:

2 [Insert correction(s)].

3

4 Further affiant sayeth naught.

5

6

7 WITNESS my hand and seal on this _____ day of _____, 20 .

8

9

10 _____
[Signature]

11 Name printed: _____

12

13 ACKNOWLEDGMENT

14 STATE OF _____ }

15 _____ }ss.

16 COUNTY OF _____ }

17

18 On this _____ day of _____, 20 , before me, a Notary

19 Public in and for the said county and state, personally appeared

20 _____, to me well known, and acknowledged that [he/she] had executed

21 the foregoing document for the consideration, uses, and purposes therein

22 mentioned and set forth.

23

24 IN WITNESS WHEREOF, I hereunto set my hand and official seal.

25

26

27 _____
Notary Public

28

29 My Commission Expires: _____

30

31 (e) A scrivener's affidavit that complies with this section in

32 substantially the form provided by subsection (d) of this section or in a

33 custom form shall be:

34

35 (1) Recorded by the county recorder in the land records of the

36 county where the real property is located;

(2) Indexed by the county recorder in the general index under

1 the names of the original parties to the instrument as they are identified in
2 the scrivener's affidavit; and

3 (3) Admissible as evidence to the same extent as a deed or other
4 instrument recorded pursuant to § 18-12-201 et seq. in an action involving
5 the instrument to which it relates or the title to the real property affected
6 by the instrument.

7 (f)(1) Except as provided in subdivisions (f)(2) and (3) of this
8 section, notice of the corrective information provided by the scrivener's
9 affidavit is effective at the time the scrivener's affidavit is recorded.

10 (2) If an error contained in a scrivener's affidavit is of an
11 obvious nature, notice of the corrective information provided by the
12 scrivener's affidavit is effective at the time the original instrument being
13 corrected was recorded.

14 (3) Subdivision (f)(2) of this section does not apply to a bona
15 fide purchaser for value of real property.

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18 /s/R. Thompson
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