

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

HOUSE BILL 1255

5 By: Representatives Evans, Beaty Jr.
6 By: Senator J. Dismang
7

For An Act To Be Entitled

9 AN ACT TO REGULATE CROSS-COLLATERALIZATION CLAUSES;
10 AND FOR OTHER PURPOSES.
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Subtitle

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13 TO REGULATE CROSS-COLLATERALIZATION
14 CLAUSES.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Arkansas Code Title 4, Chapter 56, Subchapter 1, is amended
21 to add an additional section to read as follows:

22 4-56-105. Cross-collateralization clauses.

23 (a) As used in this section, unless the context otherwise requires,
24 "cross-collateralization clause" means a clause that by its terms grants a
25 security interest established under a separate security agreement,
26 instrument, mortgage, or deed of trust to secure debt or another obligation
27 other than that for which it was specifically incurred, including without
28 limitation a preexisting or subsequent debt or obligation.

29 (b) A cross-collateralization clause that grants a security interest
30 for a personal, family, household, or commercial purpose is valid and
31 enforceable, whether or not the cross-collateralization clause is specific or
32 general, lists or identifies existing debts or obligations, or secures debts
33 incurred for the same purpose as the original debt.

34 (c)(1) A security agreement, instrument, mortgage, or deed of trust
35 that secures indebtedness granted for a personal, family, or household
36 purpose that contains a cross-collateralization clause shall distinguish the



1 existence of the cross-collateralization clause.

2 (2) The existence of a cross-collateralization clause is
3 distinguished if the cross-collateralization clause:

4 (A) Appears in a type size at least two (2) points larger
5 than the surrounding text;

6 (B) Appears in a substantially different type face or font
7 from the surrounding text, including without limitation bold or italics;

8 (C) Appears within a lined box or with a lined border
9 above and below;

10 (D) Appears with a special heading or title labeled
11 “cross-collateralization clause”, if the heading or title satisfies a method
12 established in subdivisions (c)(2)(A)–(C) of this section; or

13 (E) The debtor, mortgagor, or transferor acknowledges the
14 existence of the cross-collateralization clause by initialing the security
15 instrument, mortgage, or deed of trust adjacent to the cross-
16 collateralization clause or in a separate disclosure that specifically refers
17 to the cross-collateralization clause.

18 (d) A cross-collateralization clause is valid and enforceable if the
19 cross-collateralization clause meets the requirements of this section.

20 (e) A cross-collateralization clause in a security instrument that
21 does not identify the preexisting debt, value, or obligation is not invalid
22 if the cross-collateralization clause meets the requirements of this section.

23 (f)(1) The failure to comply with this section shall render the cross-
24 collateralization clause void.

25 (2) A cross-collateralization clause that is void shall not
26 affect or impair the validity of the security agreement, instrument,
27 mortgage, or deed of trust.

28 (g) This section applies to a security agreement, instrument,
29 mortgage, or deed of trust executed on and after September 1, 2021.

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