

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

A Bill

HOUSE BILL 1808

5 By: Representative Womack
6 By: Senator B. Ballinger
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING MUNICIPAL
10 REGULATION OF UNSANITARY CONDITIONS; AND FOR OTHER
11 PURPOSES.
12
13

Subtitle

15 TO AMEND THE LAW CONCERNING MUNICIPAL
16 REGULATION OF UNSANITARY CONDITIONS.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 14-54-901 is amended to read as follows:
22 14-54-901. Municipal authority.

23 (a) Incorporated towns ~~and~~, cities of the first class, and cities of
24 the second class ~~are empowered to~~ may order the owner of lots and other real
25 property within their towns or cities by ordinance to ~~cut~~:

26 (1) Cut weeds; ~~to remove~~

27 (2) Remove garbage, rubbish, and other unsightly and unsanitary
28 articles and things upon the property; and ~~to eliminate~~

29 (3) Eliminate, fill up, or remove stagnant pools of water or any
30 other unsanitary thing, place, or condition which might become a breeding
31 place for mosquitoes, flies, and germs harmful to the health of the
32 community, ~~after the town or city has provided therefor by an ordinance to~~
33 ~~that effect.~~

34 (b)(1) An action shall not be taken under this subchapter against an
35 owner of property unless the reason for which action is taken can be proven
36 beyond a reasonable doubt to be a serious threat to the health or safety of



1 the public outside the boundary of the property at issue.

2 (2) An owner of property at issue under subdivision (b)(1) of
 3 this section that does not comply with an ordinance under this section may be
 4 prevented from receiving improvement subsidies or subsidized flood insurance.

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 6 SECTION 2. Arkansas Code § 14-54-903(a)(3), concerning the definition
 7 of “priority clean-up lien”, is amended to read as follows:

8 (3) “Priority clean-up lien” means a clean-up lien for work
 9 undertaken by a city or town on an unsafe and vacant structure or weed lot
 10 that is given priority status over other lienholders following notice and
 11 public hearing in circuit court;

12
 13 SECTION 3. Arkansas Code § 14-54-903(e)-(j), concerning the refusal of
 14 an owner to comply, are amended to read as follows:

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

18 (B) If the city or town wishes to secure a priority clean-
 19 up lien after the work has been completed, it shall provide second notice to
 20 the lienholders of record of the total amount of the clean-up lien.

21 (2) Cities and towns are not required to give notice of court
 22 liens to prior lienholders.

23 (3) Notice of the amount of a clean-up lien or a court lien may
 24 be combined with the notice of the hearing before the ~~governing body~~ circuit
 25 court to create and impose the clean-up lien or court lien.

26 (f) The amount of any clean-up lien or court lien provided in this
 27 section may be determined at a public hearing before the ~~governing body of~~
 28 ~~the city or town~~ circuit court held after thirty (30) days’ written notice by
 29 mail, return receipt requested, to the owner of the property if the name and
 30 address of the owner are known and to the lienholders of record.

31 (g) If the name of the owner cannot be determined, then the amount of
 32 the clean-up lien or court lien shall be determined at a public hearing
 33 ~~before the governing body of the city or town~~ in circuit court only after
 34 publication of notice of the hearing in a newspaper having a bona fide
 35 circulation in the county where the property is located for one (1) insertion
 36 per week for four (4) consecutive weeks.

1 (h)(1) ~~The determination of the governing body confirming the amount~~
 2 ~~of any clean up lien or court lien and creating and imposing any clean up~~
 3 ~~lien or court lien under this section is subject to appeal by the property~~
 4 ~~owner or by any lienholder of record in the circuit court, filed within~~
 5 ~~forty five (45) days after the determination is made~~ A property owner is not
 6 responsible for a violation under this section that occurs during a time
 7 period in which the property in question is rented or leased to a third
 8 party.

9 (2) ~~If the owner or lienholder fails to appeal in this time, the~~
 10 ~~lien amount is fully perfected and not subject to further contest or appeal~~
 11 During a time period in which the property in question is rented or leased to
 12 a third party, a violation under this section is the responsibility of the
 13 person or corporation renting or leasing the property if the person or
 14 corporation renting or leasing the property is found to have caused the
 15 violation under this section.

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

20 (j)(1) If the city or town wishes to secure a first-priority status
 21 for any priority clean-up lien created and imposed under this section, it
 22 shall file an action with the circuit court within which the property is
 23 located seeking a declaration that the clean-up lien is entitled to priority
 24 over previously recorded liens and naming the holders of the recorded liens
 25 as defendants.

26 (2) Priority status shall be awarded to the priority clean-up
 27 lien with respect to any previously recorded lien if the court determines
 28 that such lienholder has failed to exercise its rights to foreclose its lien
 29 when the obligation it secures becomes in default or has failed to pay the
 30 costs of work undertaken by a city or town that composes the clean-up lien.
 31 However, the amount as to which the clean-up lien shall have priority shall
 32 be the amount the court finds reasonable and is limited to:

33 (A) No more than ~~one thousand dollars (\$1,000)~~ one hundred
 34 dollars (\$100) per year for grass ~~or~~ cutting, weed cutting, trash pickup, or
 35 trash disposal;

36 (B) No more than five thousand dollars (\$5,000) to board

1 and secure the property;

2 (C) No more than seven thousand five hundred dollars
3 (\$7,500) to demolish any structures on the property; or

4 (D) No more than fifteen thousand dollars (\$15,000) for
5 hazardous waste environmental remediation.

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