

State of Arkansas

As Engrossed: S3/3/25

95th General Assembly

A Bill

Regular Session, 2025

HOUSE BILL 1238

By: Representative Cavanaugh

By: Senator D. Sullivan

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING STATUTORY
FORECLOSURES; TO AUTHORIZE A MORTGAGOR TO RECOVER
FEES IN CERTAIN CIRCUMSTANCES; AND FOR OTHER
PURPOSES.

Subtitle

TO AUTHORIZE A MORTGAGOR TO RECOVER FEES
IN CERTAIN CIRCUMSTANCES UNDER THE
STATUTORY FORECLOSURE LAW.

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

*SECTION 1. Arkansas Code Title 18, Chapter 50, Subchapter 1, is
amended to add an additional section to read as follows:*

18-50-118. Recovery of fees.

*(a) A mortgagor may recover reasonable attorney's fees under this
subchapter if a court sets aside the statutory foreclosure sale due to a
mortgagee's failure to strictly comply with any provision of § 18-50-101 et
seq., under § 18-50-116(d)(2)(B)(ii).*

*(b) A mortgagor shall not be awarded attorney's fees under subsection
(a) of this section if the:*

*(1) Mortgagor and mortgagee reach a mutual resolution of the
debt and corresponding foreclosure;*

*(2) Mortgagor files a petition for bankruptcy while the
foreclosure or any related litigation is pending;*

*(3) Mortgagee instituted the statutory foreclosure while in good
faith relying on a policy of title insurance that was subsequently found to*



1 be in error;

2 (4) Mortgagee instituted the statutory foreclosure in good faith
3 without knowledge of unrecorded debt on the subject property;

4 (5) Mortgagee instituted the statutory foreclosure in good faith
5 without knowledge of assessments, taxes, or liens filed against the subject
6 property subsequent to the final policy of title insurance being issued; or

7 (6) Mortgage is reinstated under § 18-50-114.

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9 /s/Cavanaugh

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12 **APPROVED: 3/18/25**
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