



**State of Arkansas
Department of Finance and Administration
Fiscal Impact Statement**

Bill: HB1273

Bill Subtitle: TO PROVIDE THAT A LIEN CREATED BY THE ENTRY OF CERTIFICATE OF INDEBTEDNESS ISSUED BY THE SECRETARY OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION IS NOT SUPERIOR TO A PURCHASE MONEY MORTGAGE.

Sponsors:

Rep. Warren and Sen. Penzo

Basic Change:

HB1273 amends § 26-18-701 to provide that a certificate of indebtedness (state tax lien) filed by the Department of Finance and Administration (DFA) is not superior in priority to a purchase money mortgage regardless of whether the tax lien was filed prior to the purchase money mortgage.

Fiscal Impact:

None.

Taxpayer Impact:

None.

Resources Required:

None.

Time Required:

None.

Procedural Changes:

None.

Other Comments:

None.

Legal Analysis:

HB1273 codifies Arkansas Supreme Court precedent that a state tax lien is not superior to a purchase money mortgage. A purchase money mortgage is a mortgage on land executed by the purchaser of the land as part of the same transaction. DFA is authorized to state tax lien for a tax deficiency and to record the lien in any county in the state. The state tax lien has priority over any other lien recorded later in time, except for a purchase money mortgage, which is superior to any other lien. HB1273 amends § 26-18-701(a)(3)(B) to codify the holding of *Garrett Tire Center, Inc. v. Herbaugh*, 294 Ark. 21, 740 S.W.2d 612 (1987).