

1 State of Arkansas  
2 95th General Assembly  
3 Regular Session, 2025  
4

As Engrossed: S3/3/25

# A Bill

HOUSE BILL 1238

5 By: Representative Cavenaugh  
6 By: Senator D. Sullivan  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING STATUTORY  
10 FORECLOSURES; TO AUTHORIZE A MORTGAGOR TO RECOVER  
11 FEES IN CERTAIN CIRCUMSTANCES; AND FOR OTHER  
12 PURPOSES.  
13  
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### Subtitle

16 TO AUTHORIZE A MORTGAGOR TO RECOVER FEES  
17 IN CERTAIN CIRCUMSTANCES UNDER THE  
18 STATUTORY FORECLOSURE LAW.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 *SECTION 1. Arkansas Code Title 18, Chapter 50, Subchapter 1, is*  
23 *amended to add an additional section to read as follows:*

24 *18-50-118. Recovery of fees.*

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

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

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

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

35 *(3) Mortgagee instituted the statutory foreclosure while in good*  
36 *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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/s/Cavanaugh

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