

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

A Bill

HOUSE BILL 1271

5 By: Representative Warren
6 By: Senator C. Penzo
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING MECHANICS' AND
10 MATERIALMEN'S LIENS; TO CLARIFY THE PRIORITY OF LIENS
11 IN MORTGAGE CONSTRUCTION LOANS; AND FOR OTHER
12 PURPOSES.
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Subtitle

15 TO AMEND THE LAW CONCERNING MECHANICS'
16 AND MATERIALMEN'S LIENS; AND TO CLARIFY
17 THE PRIORITY OF LIENS IN MORTGAGE
18 CONSTRUCTION LOANS.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code § 18-44-110(b)(1), concerning lien attachment
24 and priority, is amended to read as follows:

25 (b)(1)(A) The liens for labor performed or materials or fixtures
26 furnished, as provided for in this subchapter, shall attach to the
27 improvement on which the labor was performed or the materials or fixtures
28 were furnished ~~in preference to any encumbrance existing on the real estate~~
29 ~~prior to the commencement of construction or repair of the improvement.~~

30 (B)(i) In all cases in which the ~~prior~~ encumbrance was
31 given for the purpose of funding construction or repair of the improvement,
32 that lien shall have priority over all liens given by this subchapter.

33 (ii) A person who acquires or intends to acquire a
34 mortgage or other security instrument that provides a security interest for
35 the purpose of funding construction or repair of the improvement may
36 conclusively rely on an affidavit made by a licensed appraiser, surveyor, or



1 engineer if the licensed appraiser, surveyor, or engineer has inspected the
2 property at a specified time and work had not been commenced or materials
3 placed at its site at the time of the inspection, if the inspection occurs
4 and the affidavit is filed within four (4) business days before or within
5 four (4) business days after the filing of the mortgage or other security
6 instrument that provides a security interest.

7 (iii) The facts in an affidavit filed under
8 subdivision (b)(1)(B)(ii) of this section:

9 (a) Shall be considered true at the time of
10 the inspection; and

11 (b) Shall remain true at the time of the
12 filing of the mortgage or other security instrument that provides a security
13 interest.

14 (iv) The correctness of the facts contained in an
15 affidavit filed under subdivision (b)(1)(B)(ii) of this section shall not be
16 controverted to affect the priority of the rights of the person to whom or
17 for whom it is given, unless actual fraud by that person is proved.

18 (v) A person who provides a false affidavit under
19 subdivision (b)(1)(B)(ii) of this section shall be responsible for any loss
20 or damage suffered by a person whose rights are adversely affected.

21 (C) Except as provided in subsection (a) of this section,
22 in the event that construction commences before the recordation of the
23 mortgage or other security instrument that provides a security interest for
24 the purpose of funding construction or repair of the improvement, only the
25 liens for providing labor, materials, or supplies before the recordation of
26 the mortgage or other security instrument that provides a security interest
27 shall have priority over the mortgage or other security instrument that
28 provides a security interest.

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