

Stricken language would be deleted from and underlined language would be added to present law.
Act 306 of the Regular Session

State of Arkansas
95th General Assembly
Regular Session, 2025

As Engrossed: S3/3/25

A Bill

HOUSE BILL 1238

By: Representative Cavenaugh

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



be in error;

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

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

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

/s/Cavanaugh

APPROVED: 3/18/25