

Stricken language would be deleted from and underlined language would be added to present law.

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