

1 **TRUST DEED AMENDMENTS**

2 2010 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: John L. Valentine**

5 House Sponsor: Lorie D. Fowlke

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies a provision relating to a statement provided by a trustee under a trust
10 deed.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ clarifies a trustee's responsibility to provide a statement of reinstatement or payoff
14 amounts;
- 15 ▶ authorizes a person with a right to reinstate an obligation secured by a trust deed to
16 request a statement;
- 17 ▶ provides a process and time frame for a trustee to provide the statement;
- 18 ▶ provides consequences if a trustee fails to provide the statement within the time
19 required; and
- 20 ▶ makes technical changes.

21 **Monies Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **57-1-31.5**, as last amended by Laws of Utah 2007, Chapter 306

28
29 *Be it enacted by the Legislature of the state of Utah:*

30 Section 1. Section **57-1-31.5** is amended to read:

31 **57-1-31.5. Reinstatement or payoff statement -- Timeliness of request --**

32 **Trustee's duty to provide statement -- Statement to include accounting of costs and fees.**

33 (1) ~~[For purposes of]~~ As used in this section[;]:

34 (a) "Approved delivery method" means delivery by:

35 (i) certified or registered United States mail with return receipt requested; or

36 (ii) a nationally recognized letter or package delivery or courier service operating in

37 the state that provides a service for:

38 (A) tracking the delivery of an item; or

39 (B) documenting:

40 (I) that the item was received by the intended recipient; or

41 (II) a refusal to accept delivery of the item.

42 (b) "Compensation" means anything of economic value that is paid, loaned, granted,

43 given, donated, or transferred to a trustee for or in consideration of:

44 ~~[(a)]~~ (i) services;

45 ~~[(b)]~~ (ii) personal or real property; or

46 ~~[(c)]~~ (iii) other thing of value.

47 (c) "Interested party" means a person with a right under Subsection 57-1-31(1) to

48 reinstate an obligation secured by a trust deed.

49 (d) "Payoff statement" means a statement under Subsection (2) that an interested party

50 requests in order to obtain the amount required to pay off a loan secured by a trust deed.

51 (e) "Reinstatement statement" means a statement under Subsection (2) that an

52 interested party requests in order to obtain the amount required under Subsection 57-1-31(1)

53 to reinstate an obligation secured by a trust deed.

54 ~~[(2) If a trustee receives a request from the trustor for a statement as to the amount~~

55 ~~required to be paid to reinstate or payoff a loan, the]~~

56 (2) (a) (i) An interested party may submit a written request to a trustee for a statement

57 of the amount required to be paid:

58 (A) to reinstate an obligation secured by a trust deed; or
59 (B) to pay off a loan secured by a trust deed.
60 (ii) (A) A request for a reinstatement statement is not timely unless the trustee receives
61 the request at least 10 business days before expiration of the three-month period under Section
62 57-1-31 to reinstate an obligation.
63 (B) A request for a payoff statement is not timely unless the trustee receives the
64 request at least 10 business days before the trustee's sale.
65 (iii) An interested party submitting a reinstatement statement or payoff statement to a
66 trustee shall submit the statement to the trustee:
67 (A) at the address specified in the trust deed for notices to the trustee; or
68 (B) at an alternate address approved by the trustee for delivery of mail or notices.
69 (iv) A trustee is considered to have received a request submitted under Subsection
70 (2)(a)(i) if:
71 (A) the interested party submitted the request through an approved delivery method;
72 and
73 (B) documentation provided under the approved delivery method indicates that:
74 (I) the request was delivered to the trustee; or
75 (II) delivery of the request was refused.
76 (b) (i) A trustee who receives a written request under Subsection (2)(a) shall provide
77 the statement to the interested party.
78 (ii) A trustee is considered to have provided the statement requested under Subsection
79 (2)(a) on the date that the trustee deposits the statement with an approved delivery method:
80 (A) with all delivery costs prepaid; and
81 (B) addressed to the interested party at the address provided in the request.
82 (c) (i) If the trustee provides a requested reinstatement statement later than five
83 business days after the request is received, the time to reinstate under Section 57-1-31 is tolled
84 from the date of the request to the date that the trustee provides the statement.
85 (ii) If, after scheduling a trustee's sale, the trustee fails to provide a requested payoff

86 statement within five business days after the request is received, the trustee shall:

87 (A) cancel the trustee's sale; or

88 (B) postpone the trustee's sale to a date at least 10 business days after the trustee
89 provides the statement.

90 (3) A trustee shall include with ~~[that]~~ each statement required under Subsection (2)(a):

91 (a) a detailed listing of any of the following that the trustor would be required to pay to
92 reinstate or payoff the loan:

93 (i) ~~[attorney's]~~ attorney fees;

94 (ii) trustee fees; or

95 (iii) any costs including:

96 (A) title fees;

97 (B) publication fees; or

98 (C) posting fees; and

99 (b) subject to Subsection ~~[(3)]~~ (4), a disclosure of:

100 (i) any relationship that the trustee has with a third party that provides services related
101 to the foreclosure of the loan; and

102 (ii) whether the relationship described in Subsection ~~[(2)]~~ (3)(b)(i) is created by:

103 (A) an ownership interest in the third party; or

104 (B) contract or other agreement.

105 ~~[(3)]~~ (4) Subsection ~~[(2)]~~ (3)(b) does not require a trustee to provide a trustor:

106 (a) a copy of any contract or agreement described in Subsection ~~[(2)]~~ (3)(b);

107 (b) specific detail as to the nature of the ownership interest described in Subsection
108 ~~[(2)]~~ (3)(b); or

109 (c) the amount of compensation the trustee receives related to the foreclosure of the
110 loan under a relationship described in Subsection ~~[(2)]~~ (3)(b).