

28 **57-1-19. Trust deeds -- Definitions of terms.**

29 As used in Sections 57-1-20 through 57-1-36:

30 (1) "Beneficiary" means the person named or otherwise designated in a trust deed as
31 the person for whose benefit a trust deed is given, or his successor in interest.

32 (2) (a) "Revolving credit line trust deed" means a trust deed securing an agreement
33 between the trustor and a beneficiary who agrees to loan the trustor money on a continuing
34 basis so long as the outstanding amount owed to the trustor does not exceed a specified
35 amount.

36 (b) If a purported "revolving credit line trust deed" does not state, in conspicuous type
37 on the first page of the revolving credit line trust deed, that it is a revolving credit line trust
38 deed, any monies lent after any repayment are not secured by the trust deed.

39 [~~(2)~~] (3) "Trustor" means the person conveying real property by a trust deed as security
40 for the performance of an obligation.

41 [~~(3)~~] (4) "Trust deed" means a deed executed in conformity with Sections 57-1-20
42 through 57-1-36 and conveying real property to a trustee in trust to secure the performance of
43 an obligation of the trustor or other person named in the deed to a beneficiary.

44 [~~(4)~~] (5) "Trustee" means a person to whom title to real property is conveyed by trust
45 deed, or his successor in interest.

46 [~~(5) "Real property" has the same meaning as set forth in Section 57-1-1.]~~

47 (6) "Trust property" means the real property conveyed by the trust deed.

48 Section 2. Section **57-1-38** is amended to read:

49 **57-1-38. Release of security interest.**

50 (1) As used in this section:

51 (a) "Secured lender" means:

52 (i) a mortgagee on a mortgage;

53 (ii) a beneficiary on a trust deed;

54 (iii) a person that holds or retains legal title to real property as security for financing the
55 purchase of the real property under a real estate sales contract; and

56 (iv) any other person that holds or retains a security interest in real property to secure
57 the repayment of a secured loan.

58 (b) (i) "Secured loan" means a loan or extension of credit, the repayment of which is

59 secured by a mortgage, a trust deed, the holding or retention of legal title under a real estate
60 sales contract, or other security interest in real property, whether or not the security interest is
61 perfected.

62 (ii) A judgment award secured by a judgment lien is not of itself a secured loan. A
63 subsequent written agreement between a judgment creditor and a judgment debtor concerning
64 payment of the judgment is a secured loan if it otherwise qualifies under the definition in
65 Subsection (1)(b)(i).

66 (c) "Security interest" means an interest in real property that secures payment or
67 performance of an obligation. Security interest includes a lien or encumbrance.

68 (d) "Servicer" means a person that services and receives loan payments on behalf of a
69 secured lender with respect to a secured loan.

70 (2) This section may not be interpreted to validate, invalidate, alter, or otherwise affect
71 the foreclosure of a mortgage, the exercise of a trustee's power of sale, the exercise of a seller's
72 right of reentry under a real estate sales contract, or the exercise of any other power or remedy
73 of a secured lender to enforce the repayment of a secured loan.

74 (3) A secured lender or servicer who fails to release the security interest on a secured
75 loan within 90 days after receipt of the final payment of the loan is liable to another secured
76 lender on the real property or the owner or titleholder of the real property for:

77 (a) the greater of \$1,000 or treble actual damages incurred because of the failure to
78 release the security interest, including all expenses incurred in completing a quiet title action;
79 and

80 (b) reasonable attorneys' fees and court costs.

81 (4) A secured lender or servicer is not liable under Subsection (3) if the secured lender
82 or servicer:

83 (a) has established a reasonable procedure to release the security interest on a secured
84 loan in a timely manner after the final payment on the loan;

85 (b) has complied with this procedure in good faith; and

86 (c) is unable to release the security interest within 90 days after receipt of the final
87 payment because of the action or inaction of an agency or other person beyond its direct
88 control.

89 (5) A secured lender under a revolving credit line trust deed shall close the credit line

- 90 and reconvey the revolving credit line trust deed to the trustor if the secured lender receives:
91 (a) payment in full; and
92 (b) (i) a request for full payoff of the credit line; or
93 (ii) a written request to close the credit line.

Legislative Review Note
as of 1-11-06 10:32 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0128

Revolving Credit Line Trust Deed

18-Jan-06

5:12 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst