

Effective 5/9/2017

57-1-21 Trustees of trust deeds -- Qualifications.

- (1)
- (a) The trustee of a trust deed shall be:
 - (i) any individual who is an active member of the Utah State Bar, or any entity in good standing that is organized to provide licensed professional legal services and employs an active member of the Utah State Bar, if the individual or entity is able to do business in the state and maintains an office in the state where the trustor or other interested parties may meet with the trustee to:
 - (A) request information about what is required to reinstate or payoff the obligation secured by the trust deed;
 - (B) deliver written communications to the lender as required by both the trust deed and by law;
 - (C) deliver funds to reinstate or payoff the loan secured by the trust deed; or
 - (D) deliver funds by a bidder at a foreclosure sale to pay for the purchase of the property secured by the trust deed;
 - (ii) any depository institution as defined in Section 7-1-103, or insurance company authorized to do business and actually doing business in Utah under the laws of Utah or the United States;
 - (iii) any corporation authorized to conduct a trust business and actually conducting a trust business in Utah under the laws of Utah or the United States;
 - (iv) any title insurance company or agency that:
 - (A) holds a certificate of authority or license under Title 31A, Insurance Code, to conduct insurance business in the state;
 - (B) is actually doing business in the state; and
 - (C) maintains a bona fide office in the state;
 - (v) any agency of the United States government; or
 - (vi) any association or corporation that is licensed, chartered, or regulated by the Farm Credit Administration or its successor.
 - (b) For purposes of this Subsection (1), a person maintains a bona fide office within the state if that person maintains a physical office in the state:
 - (i) that is open to the public;
 - (ii) that is staffed during regular business hours on regular business days; and
 - (iii) at which a trustor of a trust deed may in person:
 - (A) request information regarding a trust deed; or
 - (B) deliver funds, including reinstatement or payoff funds.
 - (c) This Subsection (1) is not applicable to a trustee of a trust deed existing prior to May 14, 1963, nor to any agreement that is supplemental to that trust deed.
 - (d) The amendments in Laws of Utah 2002, Chapter 209, to this Subsection (1) apply only to a trustee that is appointed on or after May 6, 2002.
 - (e) For an entity that acts as a trustee under Subsection (1)(a)(i), only a member attorney of the entity who is currently licensed to practice law in the state may sign documents on behalf of the entity in the entity's capacity as trustee.
- (2) The trustee of a trust deed may not be the beneficiary of the trust deed, unless the beneficiary is qualified to be a trustee under Subsection (1)(a)(ii), (iii), (v), or (vi).
- (3) The power of sale conferred by Section 57-1-23 may only be exercised by the trustee of a trust deed if the trustee is qualified under Subsection (1)(a)(i) or (iv).

- (4) A trust deed with an unqualified trustee or without a trustee shall be effective to create a lien on the trust property, but the power of sale and other trustee powers under the trust deed may be exercised only if the beneficiary has appointed a qualified successor trustee under Section 57-1-22.

Amended by Chapter 465, 2017 General Session