

Effective 5/10/2016

57-1-22 Successor trustees -- Appointment by beneficiary -- Effect -- Substitution of trustee -- Recording -- Form.

- (1)
 - (a) The beneficiary may appoint a successor trustee at any time by filing an appointment of trustee or a substitution of trustee for record in the office of the county recorder of each county in which the trust property or a part of the trust property is located.
 - (b) The trustee appointed under Subsection (1)(a) has the power, duties, authority, and title described in the deed of trust.
 - (c) The beneficiary may, by express provision in the appointment of trustee or substitution of trustee, ratify and confirm an action taken on the beneficiary's behalf by the new trustee prior to the recording of the substitution of trustee.
- (2) An appointment of trustee or a substitution of trustee shall:
 - (a) identify the trust deed by stating:
 - (i) the names of the original parties to the trust deed;
 - (ii) the date of recordation; and
 - (iii)
 - (A) the book and page where the trust deed is recorded; or
 - (B) the entry number;
 - (b) include the legal description of the trust property;
 - (c) state the name and address of the new trustee; and
 - (d) be executed and acknowledged by all of the beneficiaries under the trust deed or their successors in interest.
- (3)
 - (a) If not previously recorded at the time of recording a notice of default, the successor trustee shall file for record, in the office of the county recorder of each county in which the trust property or some part of it is situated, the appointment of trustee or substitution of trustee.
 - (b) A copy of the appointment of trustee or the substitution of trustee shall be sent in the manner provided in Subsection 57-1-26(2) to any:
 - (i) person who requests a copy of any notice of default or notice of sale under Subsection 57-1-26(1)(a); and
 - (ii) person who is a party to the trust deed to whom a copy of a notice of default would be required to be mailed by Subsection 57-1-26(3).
- (4) An appointment of trustee or a substitution of trustee shall be in substantially the following form:

"Appointment or Substitution of Trustee

_____ (name and address of appointed or substituted trustee)

_____ is hereby appointed trustee under the trust deed executed by _____ as trustor, in which _____ is named beneficiary and _____ as trustee, and filed for record _____ (month \day\year), and recorded in Book _____, Page _____, Records of _____ County, (Utah or filed for record _____ (month\day\year), with recorder's entry No. _____, _____ County), Utah.

(Insert legal description)

Signature _____

(Certificate of Acknowledgment)"
- (5)
 - (a) A trustee of a trust deed may, in accordance with this Subsection (5), resign as trustee by filing for record in the office of the recorder of each county in which the trust property is located, a resignation of trustee.

(b) A trustee's resignation under this Subsection (5) takes effect upon the recording of a resignation of trustee.

(c) A resignation of trustee shall be in substantially the following form: "Resignation of Trustee

_____ (insert name and address of resigned trustee) hereby resigns as trustee under the trust deed executed by (insert name of trustor) as trustor, in which (insert name of the beneficiary) is named beneficiary and (insert name of trustee) as trustee, and filed for record (insert the month, day, and year the trust deed was recorded), and recorded in Book ____, Page ____, Records of _____ County, Utah or with recorder's entry no. _____, _____ County, Utah.

(Insert legal description)

Signature _____

(Certificate of acknowledgment)"

(d)

(i) Within three days after the day on which a trustee resigns under this Subsection (5), the trustee shall provide written notice of the trustee's resignation to each party in any legal action pending against the trustee that is related to or arises from the trustee's performance of a duty of a trustee.

(ii) Except as provided in Subsection (5)(d)(iv), within 10 days after the day on which a party is provided a notice described in Subsection (5)(d)(i), the party may move the court to substitute the beneficiary of the trust deed as defendant in the action in the place of the trustee until a successor trustee is appointed.

(iii) Except as provided in Subsection (5)(d)(iv), if, after the expiration of the time described in Subsection (5)(d)(ii), a party does not move the court to substitute the beneficiary or the successor trustee in place of the trustee as defendant, the court shall dismiss with prejudice all claims against the withdrawn trustee.

(iv) Subsection (5)(d)(ii) and (5)(d)(iii) do not apply to a cause of action against a trustee that alleges negligent or intentional misconduct by the withdrawn trustee.

(e)

(i) The withdrawal of a trustee of a trust deed under this section does not affect the validity or the priority of the trust deed.

(ii) After a trustee withdraws under this part, only a qualified successor trustee appointed by the beneficiary under Section 57-1-22 may exercise trustee powers, including the power of sale.

Amended by Chapter 305, 2016 General Session