

Senator Thomas V. Hatch proposes the following substitute bill:

REVOLVING CREDIT LINE TRUST DEED

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Thomas V. Hatch

House Sponsor: David Clark

LONG TITLE

General Description:

This bill addresses the use of a revolving credit line trust deed.

Highlighted Provisions:

This bill:

- ▶ defines "revolving credit line trust deed";
- ▶ requires that a revolving credit line trust deed contain specific language identifying it as a revolving credit line trust deed;
- ▶ addresses a secured lender's reconveyance of a revolving credit line trust deed; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-1-38, as last amended by Chapter 185, Laws of Utah 1995

Be it enacted by the Legislature of the state of Utah:



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

27 **57-1-38. Release of security interest.**

28 (1) As used in this section:

29 (a) "Revolving credit line" means an agreement between the borrower and a secured
30 lender who agrees to loan the borrower money on a continuing basis so long as the outstanding
31 principal amount owed by the borrower does not exceed a specified amount.

32 [~~(a)~~] (b) "Secured lender" means:

33 (i) a mortgagee on a mortgage;

34 (ii) a beneficiary on a trust deed;

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

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

39 [~~(b)~~] (c) (i) "Secured loan" means a loan or extension of credit, the repayment of which
40 is secured by a mortgage, a trust deed, the holding or retention of legal title under a real estate
41 sales contract, or other security interest in real property, whether or not the security interest is
42 perfected.

43 (ii) A judgment award secured by a judgment lien is not of itself a secured loan. A
44 subsequent written agreement between a judgment creditor and a judgment debtor concerning
45 payment of the judgment is a secured loan if it otherwise qualifies under the definition in
46 Subsection (1)[~~(b)~~](c)(i).

47 [~~(c)~~] (d) "Security interest" means an interest in real property that secures payment or
48 performance of an obligation. Security interest includes a lien or encumbrance.

49 [~~(d)~~] (e) "Servicer" means a person that services and receives loan payments on behalf
50 of a secured lender with respect to a secured loan.

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

55 (3) A secured lender or servicer who fails to release the security interest on a secured
56 loan within 90 days after receipt of the final payment of the loan is liable to another secured

57 lender on the real property or the owner or titleholder of the real property for:

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

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

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

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

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

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

70 (5) A secured lender under a revolving credit line shall close the revolving credit line
71 and release the security interest if the secured lender receives:

72 (a) payment in full from a third party involved in a sale or loan transaction affecting the
73 security interest; and

74 (b) (i) a request from a third party for full payoff of the credit line; or

75 (ii) a written request to close the credit line.