

**TRUST DEED AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John L. Valentine**

House Sponsor: Lorie D. Fowlke

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

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

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

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

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*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).