

**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 time frame within which a trustee is required 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:*

Section 1. Section **57-1-31.5** is amended to read:

**57-1-31.5. Accounting of costs and fees paid -- Disclosure.**

(1) ~~[For purposes of]~~ As used in this section[-];

(a) "Compensation" means anything of economic value that is paid, loaned, granted, given, donated, or transferred to a trustee for or in consideration of:

~~[(a)]~~ (i) services;

~~[(b)]~~ (ii) personal or real property; or

~~[(c)]~~ (iii) other thing of value.

(b) "Interested party" means a person with a right, by contract or under Subsection 57-1-31(1), to reinstate an obligation secured by a trust deed.

(c) "Payoff statement" means a statement under Subsection (2) that an interested party requests in order to obtain the amount required to pay off a loan secured by a trust deed.

(d) "Reinstatement statement" means a statement under Subsection (2) that an interested party requests in order to obtain the amount required under Subsection 57-1-31(1) to reinstate an obligation secured by a trust deed.

~~[(2) If a trustee receives a request from the trustor for a statement as to the amount required to be paid to reinstate or payoff a loan, the]~~

(2) (a) An interested party may submit a written request to a trustee for a statement of the amount required to be paid:

(i) to reinstate an obligation secured by a trust deed; or

(ii) to pay off a loan secured by a trust deed.

(b) A trustee who receives a written request under Subsection (2)(a) shall provide the statement using, as far as practicable, the communication method that the interested party used to make the request.

(c) (i) If the trustee provides a requested reinstatement statement later than five business days after the request is made, the time to reinstate under Section 57-1-31 is tolled from the date of the request to the date that the trustee provides the statement.

(ii) If, after scheduling a trustee's sale, the trustee fails to provide a requested payoff statement within three business days after the request is made, the trustee shall:

59            (A) cancel the trustee's sale; or  
60            (B) postpone the trustee's sale to a date at least 10 business days after the trustee  
61 provides the statement.  
62            (3) A trustee shall include with [that] each statement required under Subsection (2)(a):  
63            (a) a detailed listing of any of the following that the trustor would be required to pay to  
64 reinstate or payoff the loan:  
65            (i) [attorney's] attorney fees;  
66            (ii) trustee fees; or  
67            (iii) any costs including:  
68            (A) title fees;  
69            (B) publication fees; or  
70            (C) posting fees; and  
71            (b) subject to Subsection [~~(3)~~] (4), a disclosure of:  
72            (i) any relationship that the trustee has with a third party that provides services related  
73 to the foreclosure of the loan; and  
74            (ii) whether the relationship described in Subsection [~~(2)~~] (3)(b)(i) is created by:  
75            (A) an ownership interest in the third party; or  
76            (B) contract or other agreement.  
77            [~~(3)~~] (4) Subsection [~~(2)~~] (3)(b) does not require a trustee to provide a trustor:  
78            (a) a copy of any contract or agreement described in Subsection [~~(2)~~] (3)(b);  
79            (b) specific detail as to the nature of the ownership interest described in Subsection  
80 [~~(2)~~] (3)(b); or  
81            (c) the amount of compensation the trustee receives related to the foreclosure of the  
82 loan under a relationship described in Subsection [~~(2)~~] (3)(b).

**Legislative Review Note**  
as of 1-15-10 8:16 AM

**Office of Legislative Research and General Counsel**

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**S.B. 76 - Trust Deed Amendments**

**Fiscal Note**

2010 General Session  
State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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