

Representative Lorie D. Fowlke proposes the following substitute bill:

TRUST DEED AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John L. Valentine

House Sponsor: Lorie D. Fowlke

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:



26 AMENDS:

27 **57-1-31.5**, as last amended by Laws of Utah 2007, Chapter 306



29 *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. Accounting of costs and fees paid -- Disclosure.**

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

33 (a) "Approved delivery method" means delivery by:

34 (i) certified or registered United States mail with return receipt requested; or

35 (ii) a nationally recognized letter or package delivery or courier service operating in the

36 state that provides a service for:

37 (A) tracking the delivery of an item; or

38 (B) documenting:

39 (I) that the item was received by the intended recipient; or

40 (II) a refusal to accept delivery of the item.

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

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

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

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

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

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

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

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

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

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

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

59 (ii) (A) A request for a reinstatement statement is not timely unless the trustee receives
60 the request at least 10 business days before expiration of the three-month period under Section
61 57-1-31 to reinstate an obligation.

62 (B) A request for a payoff statement is not timely unless the trustee receives the request
63 at least 10 business days before the trustee's sale.

64 (iii) An interested party submitting a reinstatement statement or payoff statement to a
65 trustee shall submit the statement to the trustee:

66 (A) at the address specified in the trust deed for notices to the trustee; or

67 (B) at an alternate address approved by the trustee for delivery of mail or notices.

68 (iv) A trustee is considered to have received a request submitted under Subsection
69 (2)(a)(i) if:

70 (A) the interested party submitted the request through an approved delivery method;

71 and

72 (B) documentation provided under the approved delivery method indicates that:

73 (I) the request was delivered to the trustee; or

74 (II) delivery of the request was refused.

75 (b) (i) A trustee who receives a written request under Subsection (2)(a) shall provide
76 the statement to the interested party.

77 (ii) A trustee is considered to have provided the statement requested under Subsection
78 (2)(a) on the date that the trustee deposits the statement with an approved delivery method:

79 (A) with all delivery costs prepaid; and

80 (B) addressed to the interested party at the address provided in the request.

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

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

86 (A) cancel the trustee's sale; or

87 (B) postpone the trustee's sale to a date at least 10 business days after the trustee

88 provides the statement.

89 (3) A trustee shall include with [~~that~~] each statement required under Subsection (2)(a):

90 (a) a detailed listing of any of the following that the trustor would be required to pay to
91 reinstate or payoff the loan:

92 (i) [~~attorney's~~] attorney fees;

93 (ii) trustee fees; or

94 (iii) any costs including:

95 (A) title fees;

96 (B) publication fees; or

97 (C) posting fees; and

98 (b) subject to Subsection [~~(3)~~] (4), a disclosure of:

99 (i) any relationship that the trustee has with a third party that provides services related
100 to the foreclosure of the loan; and

101 (ii) whether the relationship described in Subsection [~~(2)~~] (3)(b)(i) is created by:

102 (A) an ownership interest in the third party; or

103 (B) contract or other agreement.

104 [~~(3)~~] (4) Subsection [~~(2)~~] (3)(b) does not require a trustee to provide a trustor:

105 (a) a copy of any contract or agreement described in Subsection [~~(2)~~] (3)(b);

106 (b) specific detail as to the nature of the ownership interest described in Subsection
107 [~~(2)~~] (3)(b); or

108 (c) the amount of compensation the trustee receives related to the foreclosure of the
109 loan under a relationship described in Subsection [~~(2)~~] (3)(b).

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Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

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.
