

57 receive any fee for referring business to a third party.

58 (b) [~~Fees~~] A fee prohibited under Subsection [(4)(a) include] (5)(a) includes:

59 (i) a commission;

60 (ii) a referral based fee, including a fee for the referral of:

61 (A) title work;

62 (B) posting services; or

63 (C) publishing services; or

64 (iii) a fee similar to a fee described in Subsection [(4)] (5)(b)(i) or (ii).

65 (c) Subsection [(4)] (5)(a) does not apply to:

66 (i) [~~fees~~] a fee received by a trustee for the trustee acting as co-legal counsel, if the
67 trustee is otherwise permitted by law to receive fees as co-legal counsel; or

68 (ii) a nonpreferred participation in net profits based upon an ownership interest or
69 franchise relationship that is not otherwise prohibited by law.

70 [(5)] (6) A trustee may not require the following to pay any costs that exceed the actual
71 costs incurred by the trustee:

72 (a) a trustor reinstating or paying off a loan; or

73 (b) a beneficiary acquiring property through foreclosure.

74 [(6)] (7) (a) A person that violates Subsection [(4)] (5) or [(5)] (6) is guilty of a class B
75 misdemeanor.

76 (b) In addition to a person's liability under Subsection [(6)] (7)(a), if a person violates
77 Subsection [(4) or (5), that] (5) or (6), the person is liable to the trustor for an amount equal to
78 the greater of:

79 (i) the actual damages of the trustor as a result of the violation; or

80 (ii) \$1,000.

81 (c) In an action brought under Subsection [(6)] (7)(b), the party that does not prevail in
82 the action that is brought under Subsection [(6)] (7)(b) shall pay the attorney fees of the
83 prevailing party.

84 Section 2. Section 57-1-22 is amended to read:

85 **57-1-22. Successor trustees -- Appointment by beneficiary -- Effect -- Substitution**
86 **of trustee -- Recording -- Form.**

87 (1) (a) ~~§~~→ [f] **The [f] [A] ←§** beneficiary may appoint a successor trustee at any time by
87a filing for

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153 prejudice all claims against the withdrawn trustee.

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155 trustee that alleges negligent or intentional misconduct by the withdrawn trustee.

156 (e) ~~§~~ (i) ~~←~~§ The withdrawal of a trustee of a trust deed under this section does not affect
156a the
157 validity ~~§~~ or the priority ~~←~~§ of the trust deed.
157a **~~§~~ (ii) After a trustee withdraws under this part, only a qualified successor trustee appointed**
157b **by the beneficiary under Section 57-1-22 may exercise trustee powers, including the power of**
157c **sale. ~~←~~§**