

1 **TRUST DEED AMENDMENTS**

2 2021 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Chris H. Wilson**

5 House Sponsor: Dan N. Johnson

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions relating to trust deeds.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ requires the trustee to send, by certified or registered mail, a cancellation of
- 13 recorded notice of default under a trust deed to interested parties; and
- 14 ▶ makes technical and conforming changes.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **57-1-31**, as last amended by Laws of Utah 2001, Chapter 236

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

24 Section 1. Section **57-1-31** is amended to read:

25 **57-1-31. Trust deeds -- Default in performance of obligations secured --**

26 **Reinstatement -- Cancellation of recorded notice of default.**

27 (1) (a) Whenever all or a portion of the principal sum of any obligation secured by a
28 trust deed has, prior to the maturity date fixed in the obligation, become due or been declared
29 due by reason of a breach or default in the performance of any obligation secured by the trust

30 deed, including a default in the payment of interest or of any installment of principal, or by
31 reason of failure of the trustor to pay, in accordance with the terms of the trust deed, taxes,
32 assessments, premiums for insurance, or advances made by the beneficiary in accordance with
33 terms of the obligation or of the trust deed, the trustor or the trustor's successor in interest in
34 the trust property or any part of the trust property or any other person having a subordinate lien
35 or encumbrance of record on the trust property or any beneficiary under a subordinate trust
36 deed, at any time within three months of the filing for record of notice of default under the trust
37 deed, if the power of sale is to be exercised, may pay to the beneficiary or the beneficiary's
38 successor in interest the entire amount then due under the terms of the trust deed (including
39 costs and expenses actually incurred in enforcing the terms of the obligation, or trust deed, and
40 the trustee's and attorney's fees actually incurred) other than that portion of the principal as
41 would not then be due had no default occurred, and thereby cure the existing default.

42 (b) After the beneficiary or beneficiary's successor in interest has been paid and the
43 default cured, the obligation and trust deed shall be reinstated as if no acceleration had
44 occurred.

45 (2) (a) If the default is cured and the trust deed reinstated in the manner provided in
46 Subsection (1), and a reasonable fee is paid for cancellation, including the cost of recording the
47 cancellation of notice of default, the trustee shall:

48 (i) execute, acknowledge, and deliver a cancellation of the recorded notice of default
49 under the trust deed; and [any]

50 (ii) mail, by certified or registered mail, return receipt requested, with postage prepaid,
51 within 20 days, a copy of the recorded cancellation of notice of default to each person entitled
52 to receive a copy of a notice of default and a copy of a notice of sale under Subsection
53 57-1-26(3).

54 (b) A trustee who refuses to execute and record this cancellation within 30 days is
55 liable to the person curing the default for all actual damages resulting from this refusal.

56 (c) A reconveyance given by the trustee or the execution of a trustee's deed constitutes
57 a cancellation of a notice of default.

58 (d) Otherwise, a cancellation of a recorded notice of default under a trust deed is, when
59 acknowledged, entitled to be recorded and is sufficient if made and executed by the trustee in
60 substantially the following form:

61 **Cancellation of Notice of Default**

62 The undersigned hereby cancels the notice of default filed for record
63 _____(month\day\year), and recorded in Book ____, Page ____, Records of ____
64 County, (or filed of record _____(month\day\year), with recorder's entry No. ____, ____
65 County), Utah, which notice of default refers to the trust deed executed by ____ and
66 _____ as trustors, in which ____ is named as beneficiary and ____ as trustee, and filed
67 for record _____(month\day\year), and recorded in Book ____, Page ____, Records of
68 ____ County, (or filed of record _____(month\day\year), with recorder's entry No. ____,
69 ____ County), Utah.

70 (legal description)

71 Signature of Trustee _____