

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 503

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO TRUST DEEDS; AMENDING SECTION 45-1502, IDAHO CODE, TO REVISE THE
DEFINITION OF "TRUSTEE."

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 45-1502, Idaho Code, be, and the same is hereby
amended to read as follows:

45-1502. DEFINITIONS -- TRUSTEE'S CHARGE. As used in this act:

(1) "Beneficiary" means the person named or otherwise designated in a trust deed as the person for whose benefit a trust deed is given, or his successor in interest, and who shall not be the trustee.

(2) "Grantor" means the person conveying real property by a trust deed as security for the performance of an obligation.

(3) "Trust deed" means a deed executed in conformity with this act and conveying real property to a trustee in trust to secure the performance of an obligation of the grantor or other person named in the deed to a beneficiary.

(4) "Trustee" means a person to whom ~~the legal~~ title to real property is conveyed by trust deed, or his successor in interest for the limited purpose of the power of sale contained in this chapter upon the occurrence of certain contingencies set forth in such trust deed, and the obligation to reconvey the deed of trust pursuant to section 45-1514, Idaho Code. All other incidents of ownership of such real property shall remain with the grantor. For the purpose of section 45-1506(2)(c), Idaho Code, a trustee is not a party requiring notice of sale.

(5) "Real property" means any right, title, interest and claim in and to real property owned by the grantor at the date of execution of the deed of trust or acquired thereafter by said grantor or his successors in interest. Provided, nevertheless, real property as so defined which may be transferred in trust under this act shall be limited to: (a) any real property located within an incorporated city or village at the time of the transfer; (b) any real property not exceeding eighty (80) acres, regardless of its location, provided that such real property is not principally used for the agricultural production of crops, livestock, dairy or aquatic goods; or (c) any real property not exceeding forty (40) acres regardless of its use or location.

(6) The trustee shall be entitled to a reasonable charge for duties or services performed pursuant to the trust deed and this chapter, including compensation for reconveyance services notwithstanding any provision of a deed of trust prohibiting payment of a reconveyance fee by the grantor or beneficiary, or any provision of a deed of trust which limits or otherwise restricts the amount of a reconveyance fee to be charged and collected by the trustee. A trustee shall be entitled to refuse to reconvey a deed of trust until the trustee's reconveyance fees and recording costs for recording the reconveyance instruments are paid in full. The trustee shall not be entitled

1 to a foreclosure fee in the event of judicial foreclosure or work done prior
2 to the recording of a notice of default. If the default is cured prior to
3 the time of the last newspaper publication of the notice of sale, the trustee
4 shall be paid a reasonable fee.