

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 550

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO TRUST DEEDS; AMENDING SECTION 45-1510, IDAHO CODE, TO SPECIFY  
2 THE EFFECTIVE DATE OF A TRUSTEE'S DEED AND TO PROVIDE A PROCEDURE TO  
3 RESTORE THE CONDITION OF RECORD TITLE TO THE REAL PROPERTY DESCRIBED IN  
4 A TRUSTEE'S DEED AND THE EXISTENCE AND PRIORITY OF ALL LIENHOLDERS TO  
5 THE STATUS QUO PRIOR TO THE RECORDATION OF THE TRUSTEE'S DEED UPON SALE  
6 WHEN THE TRUSTEE'S SALE IS INVALID FOR CERTAIN REASONS.  
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8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Section 45-1510, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 45-1510. TRUSTEE'S DEED -- RECORDING -- EFFECT. (1) When the trustee's  
12 deed is recorded in the deed records of the county where the property  
13 described in the deed is located, the recitals contained in the deed and in  
14 the affidavits required under section 45-1506, subsection (7), Idaho Code,  
15 shall be prima facie evidence in any court of the truth of the recitals and  
16 the affidavits. However, the recitals and affidavits are conclusive in  
17 favor of a purchaser in good faith for value or any successor in interest  
18 thereof. For purposes of this section, the trustee's deed shall be deemed  
19 effective as of the date and time on which the sale was held if such deed  
20 is recorded within fifteen (15) days after the date of sale or the first  
21 business day following the fifteenth day if the county recorder of the county  
22 in which the property is located is closed on the fifteenth day.

23 (2) Where a trustee's sale held pursuant to section 45-1506,  
24 Idaho Code, is invalid by reason of automatic stay provisions of the  
25 U.S. bankruptcy code, or a stay order issued by any court of competent  
26 jurisdiction or otherwise, recordation of a notice of rescission of the  
27 trustee's deed shall restore the condition of record title to the real  
28 property described in the trustee's deed and the existence and priority of  
29 all lienholders to the status quo prior to the recordation of the trustee's  
30 deed upon sale. Only the trustee or beneficiary who caused the trustee's  
31 deed to be recorded, or his/its successor in interest, may record a notice of  
32 rescission. The notice of rescission shall accurately identify the deed of  
33 trust, the recording instrument numbers used by the county recorder or the  
34 book and pages at which the trustee's deed and deed of trust are recorded,  
35 the names of all grantors, trustors and beneficiaries, the location of the  
36 property subject to the deed of trust and the reason for rescission. Such  
37 notice of rescission shall be in substantially the following form:

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NOTICE OF RESCISSION OF TRUSTEE'S DEED UPON SALE

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This Notice of Rescission is made this day .... with respect to the following:

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1. THAT .... is the duly appointed Trustee under the certain Deed of Trust dated .... and recorded .... as instrument number .... in book ...., page ...., wherein .... and .... are named as Trustors, .... is named as Trustee, .... is named as Beneficiary;

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2. THAT .... is the Beneficiary of record under said Deed of Trust;

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3. THAT THE DEED OF TRUST encumbers real property located in the County of ...., State of Idaho, described as follows:

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Property Description

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4. THAT BY VIRTUE OF a default under the terms of the Deed of Trust, the Beneficiary did declare a default, as set forth in a Notice of Default recorded .... as instrument number .... in book ...., page ...., in the office of the Recorder of .... County, State of Idaho;

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5. THAT THE TRUSTEE has been informed by the Beneficiary that the Beneficiary desires to rescind the Trustee's Deed recorded upon the foreclosure sale that was conducted in error due to a failure to communicate timely, notice of conditions that would have warranted a cancellation of the foreclosure that did occur on ....;

6. THAT THE EXPRESS PURPOSE of this Notice of Rescission is to return the priority and existence of all title and lienholders to the status quo ante as existed prior to the Trustee's sale.

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NOW THEREFORE, THE UNDERSIGNED HEREBY RESCINDS THE TRUSTEE'S SALE AND PURPORTED TRUSTEE'S DEED UPON SALE AND HEREBY ADVISES ALL PERSONS THAT THE TRUSTEE'S DEED UPON SALE DATED .... AND RECORDED .... AS .... INSTRUMENT NUMBER .... IN THE COUNTY OF ...., STATE OF IDAHO, FROM .... (TRUSTEE) TO .... (GRANTEE) IS HEREBY RESCINDED, AND IS AND SHALL BE OF NO FORCE AND EFFECT WHATSOEVER. THE DEED OF TRUST DATED ...., RECORDED .... AS INSTRUMENT NUMBER .... IN BOOK ...., PAGE ...., IS IN FULL FORCE AND EFFECT.

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Authorized Signatory

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Acknowledgment