

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 76

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO TRUST DEEDS; AMENDING SECTION 45-1510, IDAHO CODE, TO REVISE A
2 PROVISION RELATING TO AN INVALID TRUSTEE'S SALE AND TO MAKE A TECHNICAL
3 CORRECTION.
4

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

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

8 45-1510. TRUSTEE'S DEED -- RECORDING -- EFFECT. (1) When the trustee's
9 deed is recorded in the deed records of the county where the property de-
10 scribed in the deed is located, the recitals contained in the deed and in the
11 affidavits required under section 45-1506, ~~subsection (7)~~, Idaho Code, shall
12 be prima facie evidence in any court of the truth of the recitals and the af-
13 fidavits. However, the recitals and affidavits are conclusive in favor of a
14 purchaser in good faith for value or any successor in interest thereof. For
15 purposes of this section, the trustee's deed shall be deemed effective as of
16 the date and time on which the sale was held if such deed is recorded within
17 fifteen (15) days after the date of sale or the first business day following
18 the fifteenth day if the county recorder of the county in which the property
19 is located is closed on the fifteenth day.

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

35 NOTICE OF RESCISSION OF TRUSTEE'S DEED UPON SALE

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

38 1. THAT is the duly appointed Trustee under the certain Deed
39 of Trust dated and recorded as instrument number in

1 book , page , wherein and are named as Trustors,
2 is named as Trustee, is named as Beneficiary;

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

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

6 Property Description

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

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

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

19 NOW THEREFORE, THE UNDERSIGNED HEREBY RESCINDS THE TRUSTEE'S SALE
20 AND PURPORTED TRUSTEE'S DEED UPON SALE AND HEREBY ADVISES ALL PER-
21 SONS THAT THE TRUSTEE'S DEED UPON SALE DATED AND RECORDED
22 AS INSTRUMENT NUMBER IN THE COUNTY OF , STATE OF
23 IDAHO, FROM (TRUSTEE) TO (GRANTEE) IS HEREBY RESCINDED,
24 AND IS AND SHALL BE OF NO FORCE AND EFFECT WHATSOEVER. THE DEED OF
25 TRUST DATED , RECORDED AS INSTRUMENT NUMBER IN BOOK
26 , PAGE , IS IN FULL FORCE AND EFFECT.

27
28 Authorized Signatory

29 Acknowledgment