

TITLE 45
LIENS, MORTGAGES AND PLEDGES

CHAPTER 12
RECONVEYANCE

45-1201. DEFINITIONS. As used in this chapter:

- (1) "Beneficiary" means both the record owner of the beneficiary's interest under a trust deed, including successors in interest.
- (2) "Reconveyance" or "reconvey" means a reconveyance of a trust deed.
- (3) "Satisfactory evidence" of the full payment of an obligation secured by a trust deed means a payoff letter, the original cancelled check or a copy, including a voucher copy, of a check, payable to the beneficiary or a servicer, and reasonable documentary evidence that the check was intended to effect full payment under the trust deed or an encumbrance upon the property covered by the trust deed.
- (4) "Servicer" means a person or entity that collects loan payments on behalf of a beneficiary.
- (5) "Title agent" means a title insurance agent duly licensed as an organization under [chapter 27, title 41](#), Idaho Code.
- (6) "Title insurer" means a title insurer duly authorized to conduct business in the state of Idaho under [title 41](#), Idaho Code.
- (7) "Trust deed" means a trust deed as defined in section [45-1502](#), Idaho Code.

[45-1201, added 1995, ch. 326, sec. 1, p. 1092.]

45-1202. CONDITIONS TO RECONVEYANCE. A title insurer or title agent may reconvey a trust deed pursuant to the procedure prescribed in section [45-1203](#), Idaho Code, if the obligation secured by the trust deed shall have been fully paid by the title insurer or title agent that is permitted to reconvey the trust deed pursuant to section [45-1203](#), Idaho Code, or such title insurer or title agent shall possess satisfactory evidence of such payment in full. A title insurer or title agent may provide a reconveyance under section [45-1203](#), Idaho Code, whether or not it is then named as trustee under a trust deed.

[45-1202, added 1995, ch. 326, sec. 1, p. 1093.]

45-1203. PROCEDURE FOR RECONVEYANCE. A title insurer or title agent may execute and record a reconveyance of a trust deed upon compliance with the following procedure:

- (1) Not less than thirty (30) days after payment in full of the obligation secured by the trust deed and receipt of satisfactory evidence of payment in full has been effected, the title insurer or title agent may either:
 - (a) mail a notice by certified mail with postage prepaid, return receipt requested, to the beneficiary or a servicer at its address set forth in the trust deed, and at any address for the beneficiary or servicer specified in the last recorded assignment of the trust deed, if any, and at any address for a beneficiary or servicer shown in any request for notice duly recorded pursuant to section [45-1511](#), Idaho Code; or
 - (b) hand deliver a notice to the beneficiary or servicer. The notice shall be in substantially the following form and shall be accompanied by a copy of the reconveyance to be recorded:

NOTICE OF INTENT

TO RELEASE OR RECONVEY

TO: [Beneficiary] or [Servicer for Beneficiary]
FROM: [Title insurer or Title agent]
DATE:

Notice is hereby given to you as follows:

1. This notice concerns the trust deed described as follows:

Trustor:

Beneficiary:

Recording information:

Entry No.:

Book No.:

Page No.:

2. The undersigned claims to have fully paid or received satisfactory evidence of the payment in full of the obligation secured by the trust deed described above.

3. Unless, within sixty (60) days following the date stated above, the undersigned has received by certified mail, return receipt requested, directed to the address noted below a notice stating that you have not received payment in full of all obligations secured by the trust deed or that you otherwise object to reconveyance of the trust deed, the undersigned will fully release and reconvey the trust deed pursuant to chapter 12, title 45, Idaho Code.

4. A copy of the reconveyance or release of the trust deed is enclosed with this notice.

[Title insurer/Title agent] [Address]

(2) Sixty (60) days shall elapse following the mailing, in the case of certified mail, or delivery, in the case of hand delivery, of the notice prescribed in subsection (1) of this section.

(3) If the title insurer or title agent has not upon expiration of that sixty (60) day period received any objection under section 45-1204, Idaho Code, the title insurer or title agent may then execute, acknowledge, and record a reconveyance of the trust deed in substantially the following form:

RECONVEYANCE OF TRUST DEED

[To be used concerning trust deeds as defined in section 45-1502, Idaho Code]

....., a [Title insurer/Title agent] authorized to act in the State of Idaho does hereby, pursuant to chapter 27, title 41, Idaho Code, reconvey, without warranty, to the person or persons legally entitled thereto, the following trust property covered by a Trust Deed naming, as trustor, and, as beneficiary, which was recorded on in Book at Page as Entry No. :

The following described property located in County, State of Idaho:

[Property Description]

The undersigned title insurer/title agent hereby certifies as follows:

1. The undersigned title insurer/title agent has fully paid or received satisfactory evidence of the payment in full of the obligation secured by said Trust Deed.

2. Not less than thirty (30) days following the payment in full of said Trust Deed, the undersigned hand delivered or mailed by certified mail, return receipt requested, to the record beneficiary or a servicer for the record beneficiary under said Trust Deed at its record address a notice as required in section [45-1203](#)(1), Idaho Code.

3. In excess of sixty (60) days elapsed after the mailing of said notice and no objection to said reconveyance has been received by the undersigned.

Dated

.....
[Title insurer/Title agent]

[acknowledgment]

(4) A reconveyance of a trust deed, when executed and acknowledged in substantially the form prescribed in subsection (3) of this section shall be entitled to recordation and, when recorded, shall constitute a reconveyance of the trust deed identified therein, irrespective of any deficiency in the reconveyance procedure not disclosed in the release or reconveyance that is recorded other than forgery of the title insurer or title agent's signature. The reconveyance of a trust deed pursuant to this chapter shall not itself discharge any personal obligation that was secured by the trust deed at the time of its reconveyance.

[45-1203, added 1995, ch. 326, sec. 1, p. 1093.]

45-1204. OBJECTIONS TO RECONVEYANCES. The title insurer or title agent shall not record a reconveyance of a trust deed if, prior to the expiration of the sixty (60) day period specified in section [45-1203](#)(2), Idaho Code, the title insurer or title agent receives a notice on behalf of the beneficiary or servicer stating that the trust deed continues to secure an obligation or otherwise objecting to reconveyance of the trust deed.

[45-1204, added 1995, ch. 326, sec. 1, p. 1095.]

45-1205. LIABILITY OF TITLE INSURANCE AGENT OR UNDERWRITER. In the event that a trust deed is reconveyed by a title insurer or title agent purporting to act under the provisions of this chapter, but the obligation secured by the trust deed has not been fully paid, the title insurer or title agent effecting such reconveyance shall be liable to the beneficiary of the trust deed for the damages suffered as a result of such improper reconveyance only if the title insurer or title agent failed to substantially comply with the provisions of section [45-1203](#) or [45-1204](#), Idaho Code, or acted with negligence or in bad faith in reconveying the trust deed.

[45-1205, added 1995, ch. 326, sec. 1, p. 1095.]

45-1206. PAYOFFS PRIOR TO EFFECTIVE DATE. The reconveyance procedure prescribed in sections [45-1201](#) through [45-1205](#), Idaho Code, shall apply to obligations secured by trust deeds that were paid either prior to or following the effective date of this section.

[45-1206, added 1995, ch. 326, sec. 1, p. 1095.]