



# LAWS OF ALASKA

1988

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**Source**

HCS CSSB 515(Jud)

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**Chapter No.**

44

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**AN ACT**

Relating to foreclosure of a deed of trust or a suit on a deed of trust note; and providing for an effective date.

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**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

THE ACT FOLLOWS ON PAGE 1, LINE 10

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: May 23, 1988  
Actual Effective Date: May 24, 1988

AN ACT

Relating to foreclosure of a deed of trust or a suit on  
a deed of trust note; and providing for an effective date.

\* Section 1. AS 34.20.070(a) is amended to read:

(a) If a deed of trust is executed conveying real property located in the state to a trustee as security for the payment of an indebtedness and the deed provides that in case of default or noncompliance with the terms of the trust, the trustee may sell the property for condition broken, the trustee, in addition to the right of foreclosure and sale, may execute the trust by sale of the property, upon the conditions and in the manner set forth in the deed of trust, without first securing a decree of foreclosure and order of sale from the court, if the trustee has complied with the notice requirements of (b) of this section. If the deed of trust is foreclosed judicially or the note secured by the deed of trust is sued on and a judgment is obtained by the beneficiary, the beneficiary may not exercise the nonjudicial remedies described in this section.

\* Sec. 2. AS 34.20 is amended by adding a new section to read:

Sec. 34.20.160. NOTICE OF OTHER REMEDIES. (a) When a lender uses a note as evidence of an obligation secured by a mortgage or deed of trust, the note must affirmatively advise the mortgagor or trustor and any other party bound by the note if the mortgagee or beneficiary wants the option to bring suit directly on the note to collect an

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1 amount owing under the note without first foreclosing the mortgage or  
2 deed of trust. This option must be stated in writing within the note  
3 or as a separate document. If a note executed after the effective  
4 date of this Act fails to contain the notice specified in this sec-  
5 tion, the debt secured by the mortgage or deed of trust may be fore-  
6 closed under AS 09.45.170 - 09.45.220 or AS 34.20.070 - 34.20.135.

7 (b) If the mortgagee or beneficiary wishes to collect an amount  
8 owing under the note without first foreclosing the mortgage or deed of  
9 trust, the following language is sufficient in the note:

10 The mortgagor or trustor (borrower) is personally obligated  
11 and fully liable for the amount due under the note. The  
12 mortgagee or beneficiary (lender) has the right to sue on  
13 the note and obtain a personal judgment against the mort-  
14 gator or trustor for satisfaction of the amount due under  
15 the note either before or after a judicial foreclosure of  
16 the mortgage or deed of trust under AS 09.45.170 - 09.45.-  
17 220.

18 \* Sec. 3. APPLICABILITY. Section 1 of this Act applies to deed of  
19 trust foreclosure proceedings and suits on a deed of trust note that are in  
20 progress during, or that begin after, the effective date of this Act,  
21 unless the real property has been sold before the effective date of this  
22 Act under AS 34.20.080, or unless a judgment has been entered before the  
23 effective date of this Act in a judicial foreclosure action or judicial  
24 action for breach of contract arising out of the deed of trust.

25 \* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).  
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