

SENATE BILL NO. 322

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY SENATOR OLSON

Introduced: 2/19/02

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to default under a deed of trust, to deed of trust foreclosures, and to**
2 **home ownership and protection of equity."**

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

4 * **Section 1.** AS 34.20.070(b) is amended to read:

5 (b) Not less than **60** [30] days **or the time allowed by the deed of trust,**
6 **whichever is longer,** after the default and not less than three months before the sale
7 the trustee shall record in the office of the recorder of the recording district in which
8 the trust property is located a notice of default setting out (1) the name of the trustor,
9 (2) the book and page where the trust deed is recorded, (3) a description of the trust
10 property, including the property's street address if there is a street address for the
11 property, (4) a statement that a breach of the obligation for which the deed of trust is
12 security has occurred, (5) the nature of the breach, (6) the sum owing on the
13 obligation, (7) the election by the trustee to sell the property to satisfy the obligation,
14 and (8) the date, time, and place of the sale. An inaccuracy in the street address may

1 not be used to set aside a sale if the legal description is correct. At any time before the
 2 sale, if the default has arisen by failure to make payments required by the trust deed,
 3 the default may be cured by payment of the sum in default other than the principal
 4 which would not then be due if no default had occurred, plus attorney fees or court
 5 costs actually incurred by the trustee due to the default. If under the same trust deed
 6 notice of default under this subsection has been recorded two or more times previously
 7 and the default has been cured under this subsection, the trustee may elect to refuse
 8 payment and continue the sale.

9 * **Sec. 2.** AS 34.20.070 is amended by adding a new subsection to read:

10 (e) A default that is based on a failure to make a payment does not qualify as a
 11 default for which foreclosure may be made under this section unless the trustor is 90
 12 or more days late in making the payment on which the default is based. Except as
 13 otherwise provided in this subsection, the deed of trust holder shall accept any partial
 14 payment tendered by the trustor before this 90-day period has expired, apply the
 15 partial payment to the late payment upon which the 90 days have been calculated, and,
 16 if the partial payment fully covers that late payment, recalculate the 90 days from the
 17 date any subsequent payment that is not fully covered by the partial payment became
 18 due. If, under this subsection, successive recalculations are required, the maximum
 19 period for which successive recalculations may prevent a default from becoming a
 20 foreclosable default is 180 days from the due date of the payment for which the first
 21 recalculation is made. If a 90-day period provided by a consecutive recalculation
 22 period would extend beyond the 180-day limitation, the 90-day period is reduced by
 23 the number of days that would exceed the 180-day limitation. The deed of trust holder
 24 is not required to recalculate the 90-day period under this subsection more than six
 25 consecutive times for the same deed of trust. In this subsection,

26 (1) "consecutive recalculation period" means a recalculation period
 27 that is not interrupted by the trustor's becoming current in the trustor's payments;

28 (2) "foreclosable default" means a default for which foreclosure may
 29 be made under (b) of this section.

30 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
 31 read:

1 APPLICABILITY. This Act only applies to deeds of trust that are entered into on or
2 after the effective date of this Act.