

(LIMITED RUN SHOWING ALL ADDITIONAL SPONSORSHIPS)

CS FOR HOUSE BILL NO. 421(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/22/04

Referred: Rules

Sponsor(s): REPRESENTATIVES ANDERSON, Dahlstrom

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to reconveyances of deeds of trust."**

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

3 *** Section 1.** AS 34.20 is amended by adding a new section to read:

4 **Sec. 34.20.115. Procedure for reconveyance.** (a) Unless the beneficiary has
5 requested that a title insurance company reconvey a trust deed before the title
6 insurance company mails or delivers the notice under (b) of this section, a title
7 insurance company shall comply with the requirements of this section before
8 reconveying the trust deed.

9 (b) Not less than 30 days after payment in full of the obligation secured by a
10 trust deed and receipt of satisfactory evidence of payment in full, a title insurance
11 company shall

12 (1) mail, by certified mail with postage prepaid, return receipt
13 requested, to the beneficiary and the servicer, a notice of intent to reconvey; the notice
14 shall be sent to the beneficiary's address and the servicer's address

15 (A) stated in the trust deed;

1 (B) stated in the last recorded assignment of the trust deed, if
2 any;

3 (C) shown in a request for notice recorded under (g) of this
4 section; and

5 (D) if any, personally known to the title insurance company; or
6 (2) hand deliver to the beneficiary and to the servicer a notice of intent
7 to reconvey.

8 (c) The notice required by (b) of this section must be in substantially the
9 following form and accompanied by a copy of the reconveyance to be recorded:

10 NOTICE OF INTENT TO RECONVEY

11 TO: (Beneficiary or servicer for beneficiary)

12 FROM: (Title insurance company)

13 DATE:

14 Notice is hereby given to you as follows:

15 (1) This notice concerns the trust deed described as
16 follows:

17 Trustor:

18 Beneficiary:

19 Recording information for the trust deed:

20 Serial number:

21 or

22 Book number:

23 Page number:

24 Recording information for current assignment of trust deed:

25 Serial number:

26 or

27 Book number:

28 Page number:

29 (2) The undersigned title insurance company claims to
30 have fully paid or received satisfactory evidence of the payment in full
31 of the obligation secured by the trust deed described above.

1 (3) Unless, within 90 days following the date stated
2 above, the undersigned has received, by certified mail, return receipt
3 requested, directed to the address noted below, a notice stating that you
4 have not received payment in full of all obligations secured by the trust
5 deed or that you otherwise object to reconveyance of the trust deed, the
6 undersigned will fully release and reconvey the trust deed under
7 AS 34.20.115.

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

10 (Title insurance company)

11 (Address)

12 (Phone number)

13 (d) After at least 90 days have elapsed after the mailing or delivery of the
14 notice of intent to reconvey under (b) of this section, if a title insurance company has
15 not received an objection to the reconveyance, the title insurance company may
16 execute and record a reconveyance of the trust deed.

17 (e) The reconveyance authorized by (d) of this section must be acknowledged
18 under AS 09.63 and be in substantially the following form:

19 RECONVEYANCE OF TRUST DEED

20, a title insurance company authorized to
21 transact business in Alaska, does, by this document, reconvey, without
22 warranty, to the person or persons legally entitled to the trust property,
23 the following trust property covered by a trust deed naming
24 as trustor and as beneficiary,
25 which was recorded on at serial number
26 or at book and page
27

28 The following described property located in the
29 Judicial District, State of Alaska:

30 (property description)

31 The undersigned title insurance company certifies that

1 (1) the undersigned title insurance company has fully
2 paid or received satisfactory evidence of the payment in full of the
3 obligation secured by the trust deed;

4 (2) not less than 30 days following the payment in full
5 of the trust deed, the undersigned hand delivered or mailed by certified
6 mail, return receipt requested, to the record beneficiary under the trust
7 deed and the servicer for the record beneficiary, at the beneficiary's and
8 servicer's record addresses, and to any address personally known to this
9 title insurance company, a notice of intent to reconvey as required by
10 AS 34.20.115; and

11 (3) at least 90 days have elapsed after the mailing or
12 delivery of the notice of intent to reconvey and the undersigned title
13 insurance company has not received an objection to the reconveyance.

14 Dated

15

16 (Title insurance company)

17 (Acknowledgment)

18 (f) A reconveyance of a trust deed, when executed and acknowledged in
19 substantially the form prescribed in (e) of this section, may be recorded and, when
20 recorded, constitutes a reconveyance of the trust deed identified in the reconveyance,
21 regardless of any deficiency in the reconveyance procedure that is not disclosed in the
22 recorded reconveyance, except for forgery of the title insurance company's signature.
23 The reconveyance of a trust deed under this section does not discharge a personal
24 obligation that was secured by the trust deed at the time of its reconveyance.

25 (g) A person who wants to receive a copy of a notice given under (b) of this
26 section after the deed of trust is recorded and before the reconveyance is recorded
27 under (d) of this section may record a request for a copy of the notice in the office of
28 the recorder in the judicial district in which a part of the real property is located. The
29 request must be acknowledged, must state the name and address of the person
30 requesting the copy of the notice, and must identify the deed of trust by stating the
31 names of the parties to the deed of trust, the date of recordation, and the serial number

1 or book and page numbers where the deed of trust is recorded.

2 (h) If, at any point during the procedure required by this section, the
3 beneficiary requests the title insurance company to reconvey the trust deed, the title
4 insurance company is not required to proceed with the rest of the procedure required
5 by this section and may execute and record a reconveyance of the trust deed.

6 (i) Except as provided in (a) and (h) of this section, if a title insurance
7 company reconveys a trust deed without having satisfactory evidence of payment in
8 full required under (b) of this section or without providing the prior notice to the
9 beneficiary and the servicer as required under this section, the title insurance company
10 is liable to the beneficiary and to the heirs, successors in interest, representatives, and
11 assigns of the beneficiary for all damages occasioned by the neglect or the wilful act,
12 and the title insurance company is liable to the state for a penalty of \$300.

13 (j) In this section,

14 (1) "beneficiary" means both the record owner of the beneficiary's
15 interest under a trust deed and a successor in interest;

16 (2) "satisfactory evidence of payment in full," with regard to an
17 obligation secured by a trust deed or an encumbrance on the property covered by the
18 trust deed, means a payoff letter, or, along with reasonable documentary evidence that
19 the check was intended to effect full payment,

20 (A) the original cancelled check; or

21 (B) a copy, including a voucher copy, of a check, payable to
22 the beneficiary or a servicer;

23 (3) "servicer" means a person who handles, for a beneficiary of a trust
24 deed, the receipt of the beneficiary's payments under the trust deed;

25 (4) "title insurance company" means a title insurance company or a
26 title insurance limited producer; in this paragraph, "title insurance company" and "title
27 insurance limited producer" have the meanings given in AS 21.66.480.