

Introduced: 3/24/80  
Referred: Judiciary

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 SENATE BILL NO. 532

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act permitting the recordation of a memorandum of  
7 trust deed in place of the trust deed and a memorandum  
8 of mortgage in place of the mortgage."

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

10 \* Section 1. AS 34.15.340(a) is amended by adding new paragraphs to read:

11 (7) a mortgage, memorandum of mortgage, assignment of mort-  
12 gage, and deed of release of mortgage;

13 (8) a trust deed, memorandum of trust deed, assignment of  
14 trust deed, and reconveyance of trust deed.

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

16 Sec. 34.20.005. CONTENTS OF A MEMORANDUM OF MORTGAGE. A memoran-  
17 dum of mortgage shall contain the names and addresses of the mortgagees  
18 and mortgagors, the date of execution of the mortgage, a legal descrip-  
19 tion of the real property involved, the principal amount secured by the  
20 mortgage, and the terms of repayment.

21 \* Sec. 3. AS 34.20.020 is amended to read:

22 Sec. 34.20.020. DISCHARGE OF MORTGAGE BY ENTRY IN MARGIN OF RECORD.  
23 A mortgage that is recorded or for which a memorandum of mortgage has  
24 been recorded may be discharged by an entry in the margin of the record,  
25 signed by the mortgagee or his personal representative or assignee,  
26 acknowledging the satisfaction of the mortgage in the presence of the  
27 recorder or a deputy who shall subscribe the entry as a witness. The  
28 entry has the same effect as a deed of release acknowledged and re-  
29 corded.

1 \* Sec. 4. AS 34.20.030 is amended to read:

2           Sec. 34.20.030. RECORDING OF DISCHARGE UPON CERTIFICATE OF MORT-  
3 GAGEE. A mortgage may be discharged upon the record of the mortgage  
4 or memorandum of mortgage by the recorder who has custody of the record  
5 when there is presented to him a certificate executed by the mortgagee,  
6 his personal representatives or assigns, acknowledged or proved and  
7 certified in the manner prescribed in AS 34.15 to entitle conveyances to  
8 be recorded, specifying that the mortgage is paid or otherwise satisfied  
9 or discharged.

10 \* Sec. 5. AS 34.20.070(b) is amended to read:

11           (b) Not less than 30 days after the default and not less than  
12 three months before the sale, the trustee shall record in the office of  
13 the recorder of the recording district in which the trust property is  
14 located a notice of default setting out (1) the name of the trustor, (2)  
15 the book and page where the trust deed or memorandum of trust deed is  
16 recorded, (3) a description of the trust property, (4) a statement that  
17 a breach of the obligation for which the deed of trust is security has  
18 occurred, (5) the nature of the breach, (6) the sum owing on the obliga-  
19 tion, (7) the election by the trustee to sell the property to satisfy  
20 the obligation, and (8) [AND] the date, time and place of the sale. At  
21 any time before the sale, if the default has arisen by failure to make  
22 payments required by the trust deed, the default may be cured by payment  
23 of the sum in default other than the principal which would not then be  
24 due if no default had occurred, plus attorney fees or court costs  
25 actually incurred by the trustee due to the default. If under the same  
26 trust deed notice of default under this subsection has been recorded two  
27 or more times previously and the default has been cured under this  
28 subsection, the trustee may elect to refuse payment and continue the  
29 sale.

1 \* Sec. 6. AS 34.20.080(c) is amended to read:

2 (c) The deed shall recite the date and the book and page of the  
3 recording of default, and the mailing or delivery of the copies of the  
4 notice of default, the true consideration for the conveyance, the time  
5 and place of the publication of notice of sale, and the time, place and  
6 manner of sale, and refer to the trust deed or memorandum of trust deed  
7 [DEED OF TRUST] by reference to the page, volume and place of record.

8 \* Sec. 7. AS 34.20.090(b) is amended to read:

9 (b) The purchaser at a sale, his heirs and assigns are, after the  
10 execution of a deed to him by the trustee, entitled to the possession of  
11 the premises described in the deed as against the party executing the  
12 trust deed [DEED OF TRUST] or any other person claiming by, through or  
13 under him, after filing the trust deed or memorandum of trust deed [DEED  
14 OF TRUST] for record in the recording district where the property is  
15 located.

16 \* Sec. 8. AS 34.20.110 is amended to read:

17 Sec. 34.20.110. TRUST DEEDS RECORDED AS MORTGAGES. For the pur-  
18 poses of record, a trust deed [DEED OF TRUST], given to secure an in-  
19 debtedness, shall be treated as a mortgage of real estate, and recorded  
20 in full in the book provided for mortgages of real property or a memo-  
21 randum of trust deed shall be recorded. The person who makes or exe-  
22 cutes the trust deed [DEED OF TRUST] shall be indexed as "mortgagor,"  
23 and the trustee and the beneficiary or cestui que trust, as the  
24 "mortgagees."

25 \* Sec. 9. AS 34.20 is amended by adding a new section to read:

26 Sec. 34.20.115. CONTENTS OF MEMORANDUM OF TRUST DEED. A memoran-  
27 dum of trust deed shall contain the names and addresses of the trustee,  
28 trustor, and beneficiary, the date of execution of the trust deed, a  
29 legal description of the real property involved, the principal amount

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secured by the trust deed, and the terms of repayment.

\* Sec. 10. AS 34.20.120(b)(3) is amended to read:

(3) the book and page where the trust deed or memorandum of trust deed is recorded;