

Original sponsor: Judiciary Committee

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 515 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to foreclosure of a deed of trust or  
7 a suit on a deed of trust note; and providing for an  
8 effective date."

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

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

11 (a) If a deed of trust is executed conveying real property  
12 located in the state to a trustee as security for the payment of an  
13 indebtedness and the deed provides that in case of default or noncom-  
14 pliance with the terms of the trust, the trustee may sell the property  
15 for condition broken, the trustee, in addition to the right of fore-  
16 closure and sale, may execute the trust by sale of the property, upon  
17 the conditions and in the manner set forth in the deed of trust,  
18 without first securing a decree of foreclosure and order of sale from  
19 the court, if the trustee has complied with the notice requirements of  
20 (b) of this section. If the deed of trust is foreclosed judicially or  
21 the note secured by the deed of trust is sued on and a judgment is ob-  
22 tained by the beneficiary, the beneficiary may not exercise the  
23 nonjudicial remedies described in this section.

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

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

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).