

HB

421

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 22, 2004

SUBJECT: CSHB 421(JUD) relating to reconveyances of deeds of trust
(Work Order No. 23-LS1315M)

TO: Representative Lesil McGuire
Chair, House Judiciary Committee
Attn: Vanessa

FROM: *JB* Theresa L. Bannister
Legislative Counsel

This memo accompanies the committee substitute described above.

1. Stylistic and other changes. Please review for stylistic and other changes made throughout the bill to incorporate the amendments into the bill.
2. Mailings to include servicer. The language of sec. 34.20.115(b) was adjusted to accommodate notices going to both the beneficiary and the servicer.
3. Addition to form. A reference to mailing to personally known addresses (now required by (b)) has been added to the reconveyance form's recital about mailings.
4. Civil penalty. The penalty language was changed to "civil penalty" to more clearly indicate what appeared to be the intent. Also, exceptions were added at the beginning of subsection (i).
5. Identification of department. It was not evident which department is to receive the penalty under (i) of the section, so the draft was changed to read "liable to the state."
6. Definition of "satisfactory evidence." The definition was not entirely clear, so please examine the break-out of the forms of proof of payment to determine if it is what you intended.

If I may be of further assistance, please advise.

TLB:mdr
04-180.mdr

Enclosure

HOUSE COMMITTEE REPORT

3.25.04

(7)

Date Referred to Committee: February 2, 2004

FURTHER REFERRALS: Judiciary

Date of Committee Action: March 24, 2004

The LABOR AND COMMERCE Committee considered:

HB 421

HOUSE BILL NO. 421

DEED OF TRUST RECONVEYANCE

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

Recommends it be replaced with HCS or CS for HB 421 (LPC)
 For Senate Bills with new title: Technical Title New Title: HCR Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DFG
 GOV
 HSS
 LEG
 LAW
 LWF
 MVA
 DNR
 DPS
 REV
 DOT
 UA

NEW FISCAL NOTES				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
DNR	1			X

PREVIOUS FISCAL NOTES				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
<i>Happy Z Crawford</i>	CRAWFORD	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	LYNN	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	GATTO	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	ROKBERG	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	DAHLSTROM	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	GUTTENBERG	<input checked="" type="checkbox"/>			
Chair: <i>[Signature]</i>	ANDERSON	<input checked="" type="checkbox"/>			
Chair:					

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 421(L&C)
 (H) Publish Date: 3/25/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title Deed of Trust Reconveyance RDU Resource Development
 Component Recorder's Office
 Sponsor Rep. Anderson
 Requester (H) L&C Component No. 802

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact for the Recorder's Office associated with implementation of this legislation.

Prepared by: Vicky Backus Phone 907-269-8882
 Division: Recorder's Office Date/Time 3/9/04
 Approved by: Thomas Irwin, Commissioner Date 3/9/04
 Agency: Natural Resources

ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair
Rep. Tom Anderson, Vice-Chair
Rep. Jim Holm
Rep. Dan Ogg
Rep. Ralph Samuels
Rep. Les Gara
Rep. Max Gruenberg



State Capitol, Room 120
Juneau, AK 99801-1182
(907) 465-4990
Fax (907) 465-6592

House Judiciary Committee

Memorandum

To: Leg. Legal

From: Vanessa Tondini, Committee Aide
House Judiciary Committee

Date: April 21, 2004

Re: CS Request

Please create a final draft House Judiciary Committee Substitute for work order # 23-LS1315H, HB 421 incorporating the attached eight amendments (A.# 1A, 1B, 2B as amended, 2C as amended, 2D, 2E, 2F as amended, and 2G). The bill was passed out of committee today.

If you have any questions, please call me at 4990. Thank you!

The information attached to this memo is **CONFIDENTIAL** an/or privileged. It is intended to be reviewed initially by only the individual named above. If the reader of this Memorandum is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of the information contained herein is prohibited. If you have received this in error, please immediately notify the sender by telephone and return this to the sender at the above address.

AMENDMENT

TO: CS for House Bill 421 (L&C)

SPONSOR: Rep. Anderson

A#1A
PASSED

DESCRIPTION

Currently the bill requires the title insurance company to notify the beneficiary or the servicer of the deed before a reconveyance can be recorded. This amendment will change the "or" to "and" so that notification must be sent to both parties.

On page 1, line 13

Delete "or a"

Insert "and the"

On page 1, line 14

Delete "or"

Insert "and"

On page 1, line 15

Delete "or"

Insert "and"

On page 2, line 1

Delete "or"

Insert "and"

On page 2, line 3

Delete "or"

Insert "and"

On page 3, line 29

Delete "or" twice

Insert "and" twice

A#1B
PASSED

DESCRIPTION

Amendment the number of days that must elapse after mailing a notification from 60 days up to 90 days. The change from 60 to 90 days should occur in the following places:

Page 2, line 24

Page 3, line 4

Page 4, line 1

AMENDMENT

TO: CS for House Bill 421 (L&C)
SPONSOR: Rep. Anderson

A.2A
Withdrawn

On page 1, line 8
Delete "the"

Insert "any"

A.2B
PASSED

On page 2, line 2, after the word "section", insert the following:

“, and to ~~the~~^{any} address for a beneficiary and servicer personally known to the title insurance company”

A.2C
PASSED

On page 2, line 16, following the word "information"
Insert "for a trust deed"

A.2D
PASSED

On page 2, following line 20

Insert “ Recording information for current assignment of trust deed:
Serial number:.....
or
Book number:.....
Page number:.....”

A.2E
PASSED

On page 3, following line 3
Insert "(Phone number)"

A.2F
PASSED

On page 4, following line 27, insert a two new definition as follows:

“ ‘beneficiary’ means both the record owner of the beneficiary’s interest under a trust deed ~~including~~^{and} successors in interest.”

“ ‘satisfactory evidence’ of the full payment of an obligation secured by a trust deed means a payoff letter, the original cancelled check or a copy, including a voucher copy, of a check, payable to the beneficiary or a servicer, and reasonable documentary evidence that the check was intended to effect full payment under the trust deed or an encumbrance upon the property covered by the trust deed.”

Renumber the new and existing definitions accordingly.

A.2G
PASSED

On page 5, following line 1, insert a new section as follows:

(j) If a title insurance company reconveys a trust deed without having satisfactory evidence of payment required under (b) or without providing the prior notice to the beneficiary and servicer as required under this section, the title insurance company is liable to the beneficiary, the heirs, successor interest, representatives and assigns of the

4/21/2004

jwb#

beneficiary, for all damages occasioned by such neglect or willful act. A title insurance company shall pay a penalty of \$300 to the department.”

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:
LABOR & COMMERCE COMMITTEE, CHAIRMAN
COMMUNITY & REG. AFFAIRS COMMITTEE, MEMBER
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
ADMINISTRATIVE REGULATION REVIEW COMMITTEE, MEMBER

website: <http://www.akRepublicans.org/Anderson.htm>



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PHONE: (907) 269-0265
FAX: (907) 269-0264

SESSION:
ALASKA STATE CAPITOL
JUNEAU, AK 99801-1182
PHONE: (907) 465-4939
1-800-465-4939
FAX: (907) 465-2418

Representative Tom Anderson

email: Representative_Tom_Anderson@legis.state.ak.us

Date: April 14, 2004

To: Representative Lesil McGuire, Chair
House Judiciary Committee

From: Representative Tom Anderson *Tom*

Re: HB 421

This memo is to request a hearing by the House Judiciary Committee on HB 421, "An Act relating to reconveyances of deeds of trust, at the earliest possible convenience."

At its hearing in the House Labor & Commerce Committee, HB 421 received a "do pass" recommendation from every member of the Committee. The Alaska Land Title Association, the Alaska State Home Building Association, and the Alaska Mortgage Bankers Association support HB 421.

Thank you for your time and attention to this request. Please contact me if you have any questions or need additional information.

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, AK 99801-1182

SPONSOR STATEMENT FOR HB 421 BY: Representative Tom Anderson

TITLE: An Act relating to reconveyances of deeds of trust.

HB 421 is legislation proposed and requested by the Alaska Land Title Association (ALTA). The legislation would help to clear land records of paid off mortgage liens. In other words, after a mortgage (or deed of trust) has been paid off, a title insurance company could, through the procedures established in HB 421, record the reconveyance.

A title insurance company, acting as trustee under a deed of trust, could release (by deed of reconveyance) a lien after notice to the lender, if the title company paid off the deed of trust through a closing. The lender would be given 60 days to object to the proposed release of the lien.

HB 421, based on a law from the State of Idaho, would be helpful in "cleaning up" many old liens left unreleased by lenders who may be from out-of-state, or have closed. In Alaska, it is very common for the company servicing a mortgage on a home to be located outside of state.

By having this sort of law in place, the net result is a quicker closing and fewer hassles for sellers, lenders and agents. For example, any previous liens on the deed could be cleared away before they become burdensome on any future transactions or sales of the property.

The intent of this bill is to provide a clear and clean process allowing liens to be cleared from deeds after satisfactory evidence of payment has been presented to the title company. This does not establish any additional risks or opportunities for fraud, and it is not intended to create any unnecessary burdens upon mortgage lenders in Alaska.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 421(L&C)
 (H) Publish Date: 3/25/04

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 Component Recorder's Office
 Sponsor Rep. Anderson
 Requester (H) L&C Component No. 802

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Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact for the Recorder's Office associated with implementation of this legislation.

Prepared by: Vicky Backus
 Division: Recorder's Office
 Approved by: Thomas Irwin, Commissioner
 Agency: Natural Resources

Phone 907-269-8882
 Date/Time 3/9/04
 Date 3/9/04

WESTERN ALASKA LAND TITLE CO.

Agents for Stewart Title Guaranty Co.

February 11, 2004

The Honorable Tom Anderson
House of Representatives
State Capitol
Juneau, Alaska 99801-1182
VIA Fax: (907) 465-2418

Dear Mr. Anderson;

With HB421 we have an opportunity to speed up the Real Estate closing process. Title searches consistently turn up mortgages, which have been paid in full and have never been released of record. Although lenders are quick to secure their loans, some never produce the proper paperwork to release their interests of record after receiving satisfaction in full. HB421 would at least provide a tool to the industry to help alleviate the backlog of unreleased mortgages which burden the "Public Records". The speedy passage of this bill can only benefit the consumer and the industry.

Sincerely,



Tim Hurley
President

TJH/ds
CC: Representative Dan Ogg



**First American
Title Insurance Company**

3035 "C" Street • Anchorage, Alaska 99503 • Phone (907) 561-1844 • Fax (907) 561-1948

February 11, 2004

Representative Tom Anderson
State Capitol, Room 432
Juneau, AK 99801-1182

Via Fax 907-465-2418

Re: HB 421

Dear Rep. Anderson:

I am State Agency Manager, Counsel & Underwriter for First American Title Insurance Company, the largest underwriter of title insurance in the State of Alaska, and the Immediate Past President of the Alaska Land Title Association, the trade organization made up of the active title insurance agents and underwriters in Alaska. I am writing today to express First American's support for HB 421, relating to reconveyances of deeds of trust.

This bill would solve a growing problem in Alaska and other states, where as years have passed lenders and borrowers have not, for one reason or another, followed through on releasing deeds of trust representing mortgage loans on both residential and commercial properties. Title insurance agents, acting both as insurers of the status of title and as neutral escrow closers of such transactions, often pay off these loans but never receive the paperwork from the lender or borrowers to get the liens released of record at the Recorder's Office. This bill would allow us in the title industry to help future owners of the properties still encumbered with such unreleased, but paid off, loans to clear the record by reconveying (a deed of reconveyance is the document signed by the trustee under a deed of trust) the deeds of trust. This is of benefit to the real estate community as a whole, as it will result in quicker, cleaner real estate closings.

I have spoken to Josh Applebee in your office about the bill, and I would be happy to answer any questions you or others may have about it. Thank you for your assistance and support.

Very truly yours,

FIRST AMERICAN TITLE INSURANCE CO.

Bryan S. Merrell
State Agency Manager, Counsel & Underwriter

cc: John Bitney