

CHAPTER 116

AN ACT

Relating to trust deeds; amending Sections 22-5-1, 22-5-2, and 22-5-3 ACLA 1949, and amending Chapter 5 of Title 22 ACLA 1949 by adding new sections designated as Sections 22-5-6 and 22-5-7.

(S. B. 99)

Be it enacted by the Legislature of the Territory of Alaska:

Section 1. That Section 22-5-1, ACLA 1949 be and the same is hereby amended to read as follows:

Sec. 22-5-1. Trustee's authority to execute trust and sell property. Where a deed of trust has been executed conveying real property situate in the Territory of Alaska to a trustee to be held as security for the payment of any bond, note or other indebtedness, and providing that in case of default or non-compliance with the terms of the trust, the trustee may sell said property for condition broken. The said trustee, in addition to the right of foreclosure and sale now vested in him or in the beneficiary, may, and he is hereby authorized and empowered to execute his trust by sale of the said property, upon the conditions and in the manner prescribed and set forth in such deed of trust, without first securing from the court a decree of foreclosure and order of sale; provided, however, that not less than three months prior to the date of sale the trustee shall record in the office of the commissioner of the recording precinct wherein the trust property is situated a notice of default which shall set forth the name or names of the trustor or trustors, the book and page where the trust deed is re-

corded, a description of the trust property, a statement that a breach of the obligation for which such deed of trust is security has occurred, the nature of the breach, the sum or sums owing on such obligation, the election by the trustee to sell such property to satisfy the obligation, and the date, time and place of the sale. Within ten days after the recording of the notice of default, the trustee shall mail a copy of such notice by registered or certified mail to the last known address of each of the following persons or their legal representatives, if any: the grantor in the trust deed; any successor in interest to the grantor whose interest appears of record or of whose interest the trustee or the beneficiary has actual notice, or who is in possession of the property; any other person in possession of or occupying the property; any person having a lien or interest subsequent to the interest of the trustee in the trust deed, where such lien or interest appears of record or where the trustee or the beneficiary has actual notice of such lien or interest. Such notice may be delivered personally in lieu of mailing.

Section 2. That Section 22-5-2, ACLA 1949 be and the same is hereby amended to read as follows:

Sec. 22-5-2. Sale at public auc-

tion: Notice: Bidding: Deed. The sale authorized in Section 22-5-1 herein shall be made under the terms and conditions and in the manner set forth in said deed of trust; provided, however, that such sale shall in all cases be made at public auction held at the front door of the court house of the District Court for the Territory of Alaska in the division where the property is situated (unless the deed of trust specifically provide that the sale be held in a different place) and after at least thirty days public notice of the time and place of such sale shall have been given in the manner provided by law for the sale of real property on execution. The attorney for the trustee may conduct the sale and act in such sale as the auctioneer for the trustee. Sale shall be made to the highest and best bidder. The beneficiary under the trust deed may bid at the trustee's sale. The trustee shall execute and deliver to the purchaser a deed to the property sold; which deed shall recite the date and the book and page of the recording of default, and the mailing or delivery of the copies thereof, the true consideration for the conveyance, the time and place of the publication of notice of sale, and the time, place and manner of sale, and refer to the deed of trust by reference to the page, volume and place of record. Following the sale there shall be recorded in the mortgage records of the recording precinct where the property is situated an affidavit of mailing the notices of default and an affidavit of publishing notice of sale.

Section 3. That Section 22-5-3, ACLA 1949 be and the same is hereby amended to read as follows:

Sec. 22-5-3. Title, interest and possessory rights under sale and deed: Redemption. Such sale and conveyance shall transfer all title and interest which the party executing the deed of trust had in the property sold at the time of its execution, together with all title and interest he may have thereafter acquired prior to the sale, and the party executing the deed of trust, his heirs and assigns shall have no right or privilege to redeem such property, unless the deed of trust so declare.

The purchaser at such sale, his heirs or assigns, shall, after the execution of a deed to him by the said trustee, be entitled to the possession of the premises described therein as against the party executing the deed of trust or any other person claiming by, through or under him subsequent to the proper filing of said deed of trust for record in the recording district where the property is situated. A recital in the deed executed pursuant to the power of sale of compliance with all requirements of law regarding the mailing or personal delivery of copies of notices of default shall constitute prima facie evidence of compliance therewith and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value and without notice.

Section 4. Chapter 5 of Title 22, ACLA 1949, is hereby amended by adding thereto the following new section, designated as Section 22-5-6, to read as follows:

Sec. 22-5-6. Substitution of trustee under trust deed: Contents of substitution: Effect. The trustee under a trust deed upon real property given to secure an obli-

gation to pay money and conferring no other duties upon the trustee than those which are incidental to the exercise of the power of sale therein conferred, may be substituted by the recording in the mortgage records of the recording precinct in which the property is situated of a substitution executed and acknowledged by all the beneficiaries under such trust deed, or their successors in interest. The substitution must contain the date of execution of the trust deed, the name of the trustee, trustor and the beneficiary, the book and page where the trust deed is recorded, and the name of the new trustee. The substitution shall also contain an acknowledgment signed and acknowledged by the trustee named in the trust deed of a receipt of a copy thereof, or an affidavit of service of a copy thereof. From the time the substitution is filed for record, the new trustee shall succeed to

all the powers, duties, authority and title of the trustee named in the deed of trust.

Section 5. Chapter 5 of Title 22, ACLA 1949, is hereby amended by adding thereto the following new section, designated as Section 22-5-7, to read as follows:

Sec. 22-5-7. Recording of assignment of beneficial interest, or instrument subordinating or waiving priority: Effect of record. Any assignment of the beneficial interest under a deed of trust may be recorded, and from the time the same is filed for record operates as constructive notice thereof to all persons; and any instrument by which any deed of trust of real property is subordinated or waived as to priority may be recorded, and from the time the same is filed for record operates as constructive notice of the contents thereof, to all persons.

Approved March 28, 1957

CHAPTER 117

AN ACT

Relating to Prospector Assistance by the Department of Mines; providing for administration thereof by the Commissioner of Mines and authorizing an appropriation.

(S. B. 100)

Be it enacted by the Legislature of the Territory of Alaska:

Section 1. **Authority.** The Commissioner of Mines may:

(a) Grant assistance to any prospector who, in the opinion of the Commissioner, will diligently carry

out prospecting operations in accordance with this Act and regulations made under this Section. The Commissioner may in his discretion refuse any application for such assistance.

(b) The Commissioner of Mines