

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 151**

FINAL READING

Introduced by Urban Affairs Committee: Crawford, 45, Chairperson; Coash, 27; Ebke, 32; Hansen, 26; Hughes, 44; Krist, 10; McCollister, 20.

Read first time January 09, 2015

Committee: Urban Affairs

- 1 A BILL FOR AN ACT relating to real property; to amend sections 25-2142,
- 2 76-1006, and 76-1012, Reissue Revised Statutes of Nebraska; to
- 3 provide for a person designated to accept city or village notices in
- 4 cases of mortgaged property or trust deed default; to harmonize
- 5 provisions; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 25-2142, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 25-2142 (1) Upon filing a complaint for the foreclosure or  
4 satisfaction of a mortgage, the complainant shall state therein whether  
5 any proceedings have been had at law for the recovery of the debt secured  
6 thereby, or any part thereof, and whether such debt, or any part thereof,  
7 has been collected and paid.

8 (2) Subsequent to the filing of a complaint for the foreclosure or  
9 satisfaction of a mortgage under this section, the complainant, within  
10 five business days after receipt of a written request by a designated  
11 representative of the incorporated city or village having jurisdiction of  
12 the mortgaged property, shall provide the name and address of a person  
13 designated by the complainant to accept notices of violations of  
14 ordinances by the owner of the mortgaged property on behalf of the  
15 complainant. Failure to provide the name and address required under this  
16 subsection shall not void, invalidate, or affect in any way a complaint  
17 for the foreclosure or satisfaction of a mortgage filed under this  
18 section. This subsection does not impose upon the complainant a duty to  
19 maintain the mortgaged property. The designation of a representative to  
20 receive notices shall terminate upon transfer of fee title ownership to  
21 the mortgaged property.

22 Sec. 2. Section 76-1006, Reissue Revised Statutes of Nebraska, is  
23 amended to read:

24 76-1006 (1) The power of sale conferred in the Nebraska Trust Deeds  
25 Act upon the trustee shall not be exercised until:

26 (a  $\pm$ ) The trustee or the attorney for the trustee shall first file  
27 for record in the office of the register of deeds of each county wherein  
28 the trust property or some part or parcel thereof is situated a notice of  
29 default identifying the trust deed by stating the name of the trustor  
30 named therein and giving the book and page or computer system reference  
31 where the same is recorded and a description of the trust property,

1 containing a statement that a breach of an obligation for which the trust  
2 property was conveyed as security has occurred, and setting forth the  
3 nature of such breach and of his or her election to sell or cause to be  
4 sold such property to satisfy the obligation;

5 (b 2) If the trust property is used in farming operations carried on  
6 by the trustor, not in any incorporated city or village, the notice of  
7 default also sets forth:

8 (i a) A statement that the default may be cured within two months of  
9 the filing for record of the notice of default and the obligation and  
10 trust deed may be thereby reinstated as provided in section 76-1012;

11 (ii b) A statement of the amount of the entire unpaid principal sum  
12 secured by the trust deed, the amount of interest accrued thereon to and  
13 including the date the notice of default is signed by the trustee or the  
14 trustee's attorney, and the dollar amount of the per diem interest  
15 accruing from and after such date; and

16 (iii c) A statement of the amount of the unpaid principal which  
17 would not then be due had no default occurred; and

18 (c 3) After the lapse of not less than one month, or two months if  
19 the notice of default is subject to subdivision (1 2)(b)(i) of this  
20 section, the trustee or the attorney for the trustee shall give notice of  
21 sale as provided in section 76-1007.

22 (2) Subsequent to the filing of a notice of default pursuant to this  
23 section, the trustee or the attorney for the trustee, within five  
24 business days after receipt of a written request by a designated  
25 representative of the incorporated city or village having jurisdiction of  
26 the trust property, shall provide the name and address of a person  
27 designated by the beneficiary of the trust deed to accept notices of  
28 violations of ordinances by the owner of the trust property on behalf of  
29 the beneficiary. Failure to provide the name and address required under  
30 this subsection shall not void, invalidate, or affect in any way a notice  
31 of default filed under this section. This subsection does not impose upon

1 the beneficiary, trustee, or the attorney for the trustee a duty to  
2 maintain the trust property. The designation of a representative to  
3 receive notices shall terminate upon transfer of fee title ownership to  
4 the trust property.

5       Sec. 3. Section 76-1012, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7       76-1012 (1) Whenever all or a portion of the principal sum of any  
8 obligation secured by a trust deed has, prior to the maturity date fixed  
9 in such obligation, become due or been declared due by reason of a breach  
10 or default in the performance of any obligation secured by the trust  
11 deed, including a default in the payment of interest or of any  
12 installment of principal, or by reason of failure of the trustor to pay,  
13 in accordance with the terms of such trust deed, taxes, assessments,  
14 premiums for insurance, or advances made by the beneficiary in accordance  
15 with terms of such obligation or of such trust deed, the trustor or his  
16 or her successor in interest in the trust property or any part thereof or  
17 any other person having a subordinate lien or encumbrance of record  
18 thereon or any beneficiary under a subordinate trust deed, at any time  
19 within one month, or within two months if the notice of default is  
20 subject to subdivision (1 2)(b)(i) of section 76-1006, of the filing for  
21 record of notice of default under such trust deed, if the power of sale  
22 is to be exercised, may pay to the beneficiary or his or her successor in  
23 interest the entire amount then due under the terms of such trust deed  
24 and the obligation secured thereby, including costs and expenses actually  
25 incurred in enforcing the terms of such obligation, or trust deed, and  
26 the trustee's fees actually incurred not exceeding in the aggregate fifty  
27 dollars or one-half of one percent of the entire unpaid principal sum  
28 secured, whichever is greater, other than such portion of the principal  
29 as would not then be due had no default occurred, and thereby cure the  
30 default theretofore existing and thereupon all proceedings theretofore  
31 had or instituted shall be dismissed or discontinued, and the obligation

1 and trust deed shall be reinstated and shall be and remain in force and  
 2 effect the same as if no acceleration had occurred. If the default is  
 3 cured and the trust deed reinstated in the manner provided in this  
 4 section, the beneficiary, or his or her assignee, shall, on demand of any  
 5 person having an interest in the trust property, execute and deliver to  
 6 him or her a request to the trustee that the trustee execute,  
 7 acknowledge, and deliver a cancellation of the recorded notice of default  
 8 under such trust deed, and any beneficiary under a trust deed, or his or  
 9 her assignee, who, for a period of thirty days after such demand, refuses  
 10 to request the trustee to execute and deliver such cancellation shall be  
 11 liable to the person entitled to such request for all damages resulting  
 12 from such refusal. A cancellation of recorded notice of default under a  
 13 trust deed shall, when acknowledged, be entitled to be recorded and shall  
 14 be sufficient if made and executed by the trustee in substantially the  
 15 following form:

16 Cancellation of Notice of Default

17 The undersigned hereby cancels the notice of default filed for  
 18 record ....., 20...., and recorded in book ....., page ....., (or  
 19 computer system reference ..... ) Records of ..... County,  
 20 Nebraska, which notice of default refers to the trust deed executed  
 21 by ..... as trustor, in which ..... is named as beneficiary  
 22 and ..... as trustee, and filed for record ....., 20....,  
 23 and recorded in book ....., page ....., (or computer system  
 24 reference ..... ) Records of ..... County, Nebraska.

25 Signature of trustee or attorney for  
 26 trustee .....

27 (2) Whenever all or a portion of the principal sum of any obligation  
 28 secured by a trust deed has, prior to the maturity date fixed in such  
 29 obligation, become due or been declared due by reason of a breach or  
 30 default in the performance of any obligation secured by the trust deed,  
 31 including a default in the payment of interest or of any installment of

1 principal, or by reason of failure of the trustor to pay, in accordance  
2 with the terms of such trust deed, taxes, assessments, premiums for  
3 insurance, or advances made by the beneficiary in accordance with terms  
4 of such obligation or of such trust deed, in the event the trustor or his  
5 or her successor in interest or any other person having a subordinate  
6 lien or encumbrance of record thereon or any beneficiary under a  
7 subordinate trust deed makes payment of the entire amount then due under  
8 the terms of such trust deed and the obligation secured thereby at any  
9 time subsequent to the breach or default and prior to the sale of the  
10 trust property under section 76-1010, the beneficiary shall be allowed to  
11 collect the costs and expenses actually incurred in enforcing the terms  
12 of such obligation, or trust deed, including the trustee's fees, costs,  
13 and expenses actually incurred, not to exceed the amount provided in the  
14 trust deed or the obligation secured thereby.

15       Sec. 4. Original sections 25-2142, 76-1006, and 76-1012, Reissue  
16 Revised Statutes of Nebraska, are repealed.