

## LEGISLATIVE BILL 503

Approved by the Governor April 21, 2021

Introduced by Flood, 19.

A BILL FOR AN ACT relating to the Nebraska Trust Deeds Act; to amend sections 76-1011 and 76-1018, Reissue Revised Statutes of Nebraska; to require payment of attorney's fees by an objecting party as prescribed; to change trustee's sale provisions relating to the priority and distribution of proceeds; to harmonize provisions; and to repeal the original sections. Be it enacted by the people of the State of Nebraska,

Section 1. If a court enters a judgment in favor of the holder of a trust deed, mortgage, or other lien in any interpleader action, action for declaratory judgment, or any other similar action resulting from an objection to or the uncertainty of the proposed payment of proceeds of the trustee's sale by the trustee to such holders of trust deeds, mortgages, or other liens, the court shall order the objecting party or parties who, without a good faith reason, objected to the proposed payment of proceeds of the trustee's sale by the trustee, to pay the reasonable attorney's fees and court costs of any such holder.

Sec. 2. Section 76-1011, Reissue Revised Statutes of Nebraska, is amended to read:

76-1011 (1) The trustee shall apply the proceeds of the trustee's sale in the following order of priority: The trustee shall apply the proceeds of the trustee's sale, first, to the costs and expenses of exercising the power of sale and of the sale, including the payment of the trustee's fees actually incurred not to exceed the amount which may be provided for in the trust deed, second, to payment of the obligation secured by the trust deed, third, to the payment of junior trust deeds, mortgages, or other lienholders, and the balance, if any, to the person or persons legally entitled thereto.

(a) First, the proceeds shall be applied to the costs and expenses of exercising the power of sale and of the sale, including the payment of the trustee's fees actually incurred not to exceed the amount which may be provided for in the trust deed;

(b) Second, the proceeds shall be applied to payment of the obligation secured by the trust deed;

(c) Third, the proceeds shall be applied to the payment of junior trust deeds, mortgages, or other lienholders; and

(d) Fourth, the balance of the proceeds, if any, shall be applied to the person or persons legally entitled to any remaining proceeds.

(2) Whether the proceeds are disbursed by the trustee pursuant to subsection (1) of this section or pursuant to an action described in section 1 of this act, the payment of any attorney's fees and costs incurred by the trustee in connection with the distribution of the proceeds of the trustee's sale shall be deducted from the proceeds prior to the payment of junior trust deeds, mortgages, or other lien holders, or to any other person or persons legally entitled thereto.

Sec. 3. Section 76-1018, Reissue Revised Statutes of Nebraska, is amended to read:

76-1018 Sections 76-1001 to 76-1018 and section 1 of this act shall be known and may be cited as Nebraska Trust Deeds Act.

Sec. 4. Original sections 76-1011 and 76-1018, Reissue Revised Statutes of Nebraska, are repealed.