

LEGISLATIVE BILL 288

Approved by the Governor March 29, 1995

Introduced by Lynch, 13

AN ACT relating to real property; to amend section 23-1503.01, Reissue Revised Statutes of Nebraska, and section 76-1004, Revised Statutes Supplement, 1994; to change provisions relating to recording requirements for certain instruments; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 23-1503.01, Reissue Revised Statutes of Nebraska, is amended to read:

23-1503.01. Any instrument submitted for recording in the office of the register of deeds shall contain a blank space at the top of the first page which is at least two and one-half inches by six and one-half inches in size for recording information required by section 23-1510 by the register of deeds. If this space or the information required by such section is not provided, the register of deeds may add a page or use the back side of an existing page and charge for the page a fee established by section 33-109 for the recording of an instrument.

Printed forms primarily intended to be used for recordation purposes shall have a one-half-inch margin on the two vertical sides except in the space reserved for recording information. Any printed form accepted for recordation that does not comply with this section shall not affect the validity of or the notice otherwise given by the recording.

Sec. 2. Section 76-1004, Revised Statutes Supplement, 1994, is amended to read:

76-1004. (1) The beneficiary may appoint a successor trustee at any time by filing for record in the office of the register of deeds of each county in which the trust property or some part thereof is situated a substitution of trustee. From the time the substitution is filed for record, the new trustee shall succeed to all the power, duties, authority, and title of the trustee named in the deed of trust and of any successor trustee.

(2) The substitution shall identify the trust deed by stating the names of the original parties thereto, the date of recordation, the full legal description of the realty affected, and the book and page or computer system reference where the trust deed is recorded, shall state the name of the new trustee, and shall be executed and acknowledged by all of the beneficiaries under the trust deed or their successors in interest.

(3) The recorded substitution shall also contain or have attached to it an affidavit that a copy of the substitution has, by regular United States mail with postage prepaid, been mailed to the last-known address of the trustee being replaced or an affidavit of personal service of a copy thereof or of publication of notice thereof, which notice shall be published one time in a newspaper having general circulation in any county in which the trust property or some part thereof is situated.

(4) Any affidavit contained in or attached to the substitution shall constitute prima facie evidence of the facts required to be stated and conclusive evidence of such facts as to bona fide purchasers and encumbrancers for value of the trust property or of any beneficial interest in the trust deed.

(5) A substitution of trustee shall be sufficient if made in substantially the following form:

Substitution of Trustee  
(insert name and address of new trustee)  
is hereby appointed successor trustee under the trust deed executed by ..... as trustor, in which ..... is named beneficiary and ..... as trustee, and filed for record ....., 19....., and recorded in book ....., page ..... (or computer system reference .....), records of ..... County, Nebraska. The trust property affected is legally described as follows:

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Signature .....

Sec. 3. Original section 23-1503.01, Reissue Revised Statutes of Nebraska, and section 76-1004, Revised Statutes Supplement, 1994, are repealed.