

FACT SHEET

February 24, 2009

REQUEST: Support Rep. Harper's Amendment to notify renters of foreclosure.

1st Sub. HB 299: Unlawful Detainer Amendments (Froerer) Foreclosure Amendments (Harper)

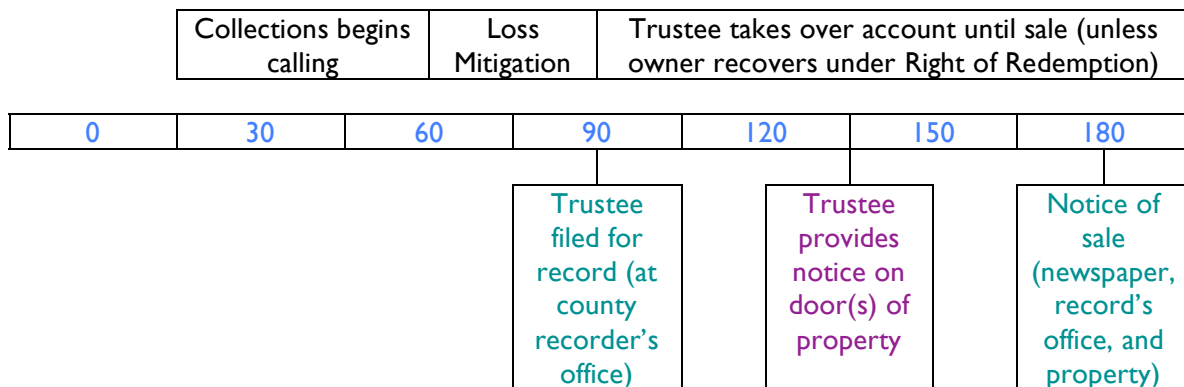
Problem:

Landlords know about their loan default the day that they decide not to pay their mortgage. Tenants are often not notified until almost 180 days later. As such, tenants are paying six months of rent that may not ever be paid to the lender. These same tenants are provided less than one month to vacate the property. Further, the tenants have no way to negotiate the return of their deposits, the last month's rent payment, and moving costs other than taking the landlord to court.

Over the next year Utah will likely experience its greatest foreclosure increase in a generation. Now is the time to act to mitigate the resultant harmful effects on families and communities.

Policy Change:

Foreclosure Activity measured by Days with Notice activity by Trustee (Current and Proposed)



Resulting Benefit of Code Change:

Tenants will be able to negotiate with their landlord for the reimbursement of their deposits, possible last month rental payment, and moving assistance. Tenants will also have the time needed to find a new place to live and move there, without completely disrupting their lives.

Another possible benefit to Utah's overall economic health is that renters will be provided enough time to secure a mortgage and bid on the property when it comes up for sale. This will keep the home off a Utah housing market which is beginning to become saturated by foreclosed properties.

**FOR MORE INFORMATION contact
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Text of Foreclosure Amendments (Harper):

57-1-24. Sale of trust property by trustee -- Notice of default.

The power of sale conferred upon the trustee who is qualified under Subsection [57-1-21\(1\)\(a\)\(i\)](#) or (iv) may not be exercised until:

(1) (a) the trustee first files for record, in the office of the recorder of each county where the trust property or some part or parcel of the trust property is situated, a notice of default, identifying the trust deed by stating the name of the trustor named in the trust deed and giving the book and page, or the recorder's entry number, where the trust deed is recorded and a legal description of the trust property, and containing a statement that a breach of an obligation for which the trust property was conveyed as security has occurred, and setting forth the nature of that breach and of the trustee's election to sell or cause to be sold the property to satisfy the obligation;

(b) the trustee shall have given written notice of the default on all residential properties with fewer than nine individual units:

(i) within 45 days of the date the trustee first files for record;

(i) on the primary door or, if a multi-tenant residence, the primary doors, of the property to be sold; and

(ii) the notice of default shall be in substantially the following form:

Notice of Default

The following described property is in default and, if not remedied, will be sold at public auction to the highest bidder for the purpose of foreclosing a trust deed originally executed by ____ (and ____), as trustors, in favor of ____, covering real property located at ____, and more particularly described as:

(Insert legal description)

A notice of sale of the property will be provided a minimum of 20 days before the public auction.

The current beneficiary of the trust deed is _____ and the record owners of the property as of the recording of the notice of default are _____ and _____.

Dated _____ (month\day\year). _____

Trustee

(iii) the trustee may include information on the reverse side of the notice regarding foreclosure mitigation.

(2) not less than three months has elapsed from the time the trustee filed for record under Subsection (1); and

(3) after the lapse of at least three months the trustee shall give notice of sale as provided in Sections [57-1-25](#) and [57-1-26](#).