

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 44

Introduced by McCoy, 39.

Read first time January 06, 2011

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to trust deeds; to amend section 76-1005, Reissue
2 Revised Statutes of Nebraska; to change provisions
3 relating to power of sale conferred on a trustee; to
4 provide for retroactive application; to repeal the
5 original section; and to declare an emergency.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 76-1005, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 76-1005 (1) A power of sale may be conferred upon the
4 trustee which the trustee may exercise and under which the trust
5 property may be sold in the manner provided in the Nebraska Trust
6 Deeds Act after a breach of an obligation for which the trust
7 property is conveyed as security, or at the option of the beneficiary
8 a trust deed may be foreclosed in the manner provided by law for the
9 foreclosure of mortgages on real property. The power of sale shall be
10 expressly provided for in the trust deed. The person selling the
11 trust property under a power of sale need not be named in the trust
12 deed. An error or omission in a trust deed concerning the designation
13 of the trustee authorized to exercise a power of sale does not
14 invalidate the trust deed or the ability of the beneficiary of the
15 trust deed to appoint a successor trustee to exercise the power of
16 sale.

17 (2) The changes made by this legislative bill shall be
18 construed to apply retroactively and shall be applied to and
19 interpreted to affect any trust deed filed of record before, on, or
20 after the effective date of this act.

21 Sec. 2. Original section 76-1005, Reissue Revised
22 Statutes of Nebraska, is repealed.

23 Sec. 3. Since an emergency exists, this act takes effect
24 when passed and approved according to law.