

understand what a trust deed is. A trust deed is an arrangement that approximates a mortgage but it's a slightly different animal. In a mortgage, normally, you borrow from the lender, you pay it back. The deed is filed in your name. In the event you don't pay off the mortgage, they foreclose on the mortgage and take back title to the property. Foreclosure can be a difficult situation for the lender. It has the right of repayment. It has some delays in there to allow the person to pay off the mortgage. It is a system that lenders feel is pretty much tied up in the courts for a long time and they can't get back the property should the mortgage not be paid. So the trust deed was invented to take the place of the mortgage. And the trust deed works this way. I want to buy a piece of property but I have got to borrow the money to do it. So I go to a lender, they lend me money. I then, although I don't do it physically, the notion goes I hand the deed to a trustee who holds the deed during the pendency of my repayment of the loan. The trustee is supposed to give me the deed back when I have paid off the loan and the property is now mine. If I do not pay off the loan, the trustee is to give the deed back to the borrower...I'm sorry, back to the lender. The trust deed value as an instrument is to cut off the rights that a borrower has in foreclosure and it strengthens the hand of the lender. That's why lenders want to use them. Now, in fact, the trustee doesn't wind up holding the actual deed and they do this arrangement on paper but the trustee is to hold this function. Now, who wants to have the trustee? Well, in one sense, both parties do because the borrower wants the money but it's the lender who wants the trustee and the lender usually finds a lawyer that they do business with to serve as the trustee and they serve on paper as the trustee and they are supposed to be notified of certain things. Now let's say that the borrower has agreed to the trustee, the trustee has been named by the lender and, for some reason, the lender who is really in the driver's seat here wants a different trustee, wants to substitute one trustee for another. Well, they can do that and they can do that under existing law and all they have to do is go through some notification processes. But this bill is designed to change the rules by which that substitution is done. Why? Well, I'll tell you what's happening out there. What's happening is the lawyers who are serving as the trustees and performing this ministerial function, when they're being asked to step aside and getting substituted by the lender, are saying, all right, I will agree to being substituted out of this arrangement and I will sign this substitution if you pay me. Haven't done anything.