

ONE HUNDRED SEVENTH LEGISLATURE - FIRST SESSION - 2021
COMMITTEE STATEMENT
LB503

Hearing Date: Tuesday February 02, 2021
Committee On: Banking, Commerce and Insurance
Introducer: Flood
One Liner: Authorize attorney's fees to be paid from trustee's sale proceeds for certain actions and judgments under the Nebraska Trust Deeds Act

Roll Call Vote - Final Committee Action:

Advanced to General File

Vote Results:

Aye: 8 Senators Aguilar, Bostar, Flood, Lindstrom, McCollister, Pahls, Slama, Williams
Nay:
Absent:
Present Not Voting:

Oral Testimony:

Proponents:

Senator Mike Flood
Ryan McIntosh

Representing:

Introducer
Nebraska Bankers Association

Opponents:

Representing:

Neutral:

Representing:

Submitted Written Testimony:

Proponents:

Eric Hallman

Representing:

Nebraska Independent Community Bankers

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

This bill would amend section 76-1011 of the Nebraska Trust Deeds Act and would enact a new section within the act to enact new provisions regarding attorney's fees and costs incurred in connection with the distribution of proceeds in connection with a trustee's sale. The bill would provide, section by section, as follows:

Section 1 would enact a new section within the Nebraska Trust Deeds Act to provide that if a court enters a judgment in favor of the holder of a trust deed, mortgage, or other lien in any action resulting from an objection to or the uncertainty of the proposed payment of proceeds of a trustee's sale to 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, to pay the reasonable attorney's fees and court costs of any such holder. The bill would provide that a judgment in favor of the holder of a trust deed, mortgage, or other lien in an amount equal to or greater than the portion of funds paid into the court by the trustee to which such holder claimed to be entitled shall be a rebuttable presumption that the objecting party or parties did not have a good faith reason to object.

Section 2 would amend section 76-1011 to provide that, in all cases, the payment of any attorney's fees and costs incurred by a trustee in connection with the distribution of proceeds of a 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.

Section 3 would amend section 76-1018 to provide that section 1 of the bill shall be assigned within the Nebraska Trust Deeds Act.

Section 4 would provide for repealers of the amendatory sections.

Matt Williams, Chairperson