

REFERENCE TITLE: foreclosures; proof of ownership

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SB 1259

Introduced by
Senators Reagan, McComish: Biggs

AN ACT

AMENDING TITLE 33, CHAPTER 6.1, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 33-807.02; RELATING TO DEEDS OF TRUST.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 33, chapter 6.1, article 1, Arizona Revised Statutes,
3 is amended by adding section 33-807.02, to read:

4 33-807.02. Nonoriginator foreclosures; evidence of title;
5 remedy; attorney fees

6 A. FOR ANY BENEFICIARY WHO IS NOT THE ORIGINATING BENEFICIARY ON THE
7 DEED OF TRUST, THE BENEFICIARY SHALL RECORD A SUMMARY DOCUMENT REGARDING THE
8 BENEFICIARY'S LEGAL INTEREST IN THE DEED OF TRUST THAT CONTAINS THE FOLLOWING
9 INFORMATION IN CHRONOLOGICAL ORDER:

10 1. THE FULL NAME AND ADDRESS OF RECORD OF EVERY PRIOR BENEFICIARY ON
11 THE DEED OF TRUST.

12 2. THE DATE, RECORDATION NUMBER OR OTHER UNIQUE DESIGNATION OF THE
13 INSTRUMENT, AND A DESCRIPTION OF THE INSTRUMENT THAT CONVEYED THE INTEREST OF
14 EACH BENEFICIARY.

15 B. THE SUMMARY DOCUMENT PRESCRIBED BY THIS SECTION SHALL BE RECORDED
16 AT THE SAME TIME AND PLACE THAT THE NOTICE OF TRUSTEE'S SALE IS RECORDED
17 PURSUANT TO SECTION 33-808 AND A COPY OF THE SUMMARY DOCUMENT SHALL BE
18 ATTACHED TO ANY NOTICE OF TRUSTEE'S SALE THAT IS REQUIRED TO BE PROVIDED AS
19 PRESCRIBED IN SECTION 33-809.

20 C. FAILURE TO PROPERLY RECORD THE SUMMARY DOCUMENT THAT DEMONSTRATES
21 EVIDENCE OF TITLE FOR THE FORECLOSING BENEFICIARY AS OF THE DATE OF THE
22 TRUSTEE'S SALE AS PRESCRIBED BY THIS SECTION RESULTS IN A VOIDABLE SALE.

23 D. ANY PERSON WITH AN INTEREST IN THE TRUST PROPERTY MAY FILE AN
24 ACTION TO VOID THE TRUSTEE'S SALE FOR FAILURE TO COMPLY WITH THIS SECTION AND
25 IS ENTITLED TO AN AWARD OF ATTORNEY FEES AS WELL AS DAMAGES AS OTHERWISE
26 PROVIDED BY LAW IF THE PERSON SUBSTANTIALLY PREVAILS, INCLUDING AN AWARD OF
27 ATTORNEY FEES FOR ANY INJUNCTION OR OTHER PROVISIONAL REMEDIES RELATED TO THE
28 CLAIM.