

REFERENCE TITLE: foreclosures; notice; mailing

State of Arizona  
Senate  
Forty-ninth Legislature  
First Regular Session  
2009

## **SB 1210**

Introduced by  
Senator Miranda

AN ACT

AMENDING SECTION 33-808, ARIZONA REVISED STATUTES; 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. Section 33-808, Arizona Revised Statutes, is amended to  
3 read:

4 33-808. Notice of trustee's sale

5 A. The trustee shall give written notice of the time and place of sale  
6 legally describing the trust property to be sold by each of the following  
7 methods:

8 1. Recording a notice in the office of the recorder of each county  
9 where the trust property is situated.

10 2. Giving notice as provided in section 33-809 to the extent  
11 applicable.

12 3. Posting a copy of the notice of sale, at least twenty days before  
13 the date of sale in some conspicuous place on the trust property to be sold,  
14 if posting can be accomplished without a breach of the peace. If access to  
15 the trust property is denied because a common entrance to the property is  
16 restricted by a limited access gate or similar impediment, the property shall  
17 be posted by posting notice at that gate or impediment. Notice shall also be  
18 posted at one of the places provided for posting public notices at any  
19 building that serves as a location of the superior court in the county where  
20 the trust property is to be sold. Posting is deemed completed on the date  
21 the trust property is posted. The posting of notice at the superior court  
22 location is deemed a ministerial act.

23 4. Publication of the notice of sale in a newspaper of general  
24 circulation in each county in which the trust property to be sold is  
25 situated. The notice of sale shall be published at least once a week for  
26 four consecutive weeks. The last date of publication shall not be less than  
27 ten days prior to the date of sale. Publication is deemed completed on the  
28 date of the first of the four publications of the notice of sale pursuant to  
29 this paragraph.

30 5. MAILING A COPY OF THE NOTICE OF SALE TO THE PROPERTY AND TO ANY  
31 OTHER MAILING ADDRESS FOR THE PROPERTY.

32 B. The sale shall be held at the time and place designated in the  
33 notice of sale on a day other than a Saturday or legal holiday between  
34 9:00 a.m. and 5:00 p.m. mountain standard time at a specified place on the  
35 trust property, at a specified place at any building that serves as a  
36 location of the superior court or at a specified place at a place of business  
37 of the trustee, in any county in which part of the trust property to be sold  
38 is situated.

39 C. The notice of sale shall contain:

40 1. The date, time and place of the sale. The date, time and place  
41 shall be set pursuant to section 33-807, subsection D. The date shall be no  
42 sooner than the ninety-first day after the date that the notice of sale was  
43 recorded.

2. The street address, if any, or identifiable location as well as the legal description of the trust property.

3. The county assessor's tax parcel number for the trust property or the tax parcel number of a larger parcel of which the trust property is a part.

4. The original principal balance as shown on the deed of trust. If the amount is not shown on the deed of trust, it shall be listed as "unspecified".

5. The names and addresses, as of the date the notice of sale is recorded, of the beneficiary and the trustee, the name and address of the original trustor as stated in the deed of trust, the signature of the trustee and the basis for the trustee's qualification pursuant to section 33-803, subsection A, including an express statement of the paragraph under subsection A on which the qualification is based. The address of the beneficiary shall not be in care of the trustee.

6. The telephone number of the trustee.

7. The name of the state or federal licensing or regulatory body or controlling agency of the trustee as prescribed by section 33-803, subsection A.

D. The notice of sale shall be sufficient if made in substantially the following form:

Notice of Trustee's Sale

The following legally described trust property will be sold, pursuant to the power of sale under that certain trust deed recorded in docket or book \_\_\_\_\_ at page \_\_\_\_\_ records of \_\_\_\_\_ county, Arizona, at public auction to the highest bidder at (specific place of sale as permitted by law) \_\_\_\_\_, in \_\_\_\_\_ county, in or near \_\_\_\_\_, Arizona, on \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_m. of said day:

(street address, if any, or identifiable

location of trust property)

(legal description of trust property)

Tax parcel number \_\_\_\_\_

Original principal balance \$ \_\_\_\_\_

Name and address of beneficiary \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name and address of original trustor \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name, address and telephone number of trustee \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signature of trustee \_\_\_\_\_

1 Manner of trustee qualification \_\_\_\_\_

2 Name of trustee's regulator \_\_\_\_\_

3 Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

4 (Acknowledgement)

5 E. Any error or omission in the information required by subsection C  
6 or D of this section, other than an error in the legal description of the  
7 trust property or an error in the date, time or place of sale, shall not  
8 invalidate a trustee's sale. Any error in the legal description of the trust  
9 property shall not invalidate a trustee's sale if considered as a whole the  
10 information provided is sufficient to identify the trust property being sold.  
11 If there is an error or omission in the legal description so that the trust  
12 property cannot be identified, or if there is an error in the date, time or  
13 place of sale, the trustee shall record a cancellation of notice of  
14 sale. The trustee or any person furnishing information to the trustee shall  
15 not be subject to liability for any error or omission in the information  
16 required by subsection C of this section except for the wilful and  
17 intentional failure to provide such information. This subsection does not  
18 apply to claims made by an insured under any policy of title insurance.

19 F. The notice of trustee sale may not be rerecorded for any  
20 reason. This subsection does not prohibit the recording of a new or  
21 subsequent notice of sale regarding the same property.