



HOUSE OF REPRESENTATIVES

HB 2033

foreclosures; deeds of trust; affidavits

Sponsor: Representative Ugenti

DP Committee on Government
DPA Caucus and COW
X As Transmitted to the Governor

OVERVIEW

HB 2033 requires a beneficiary of a foreclosed trustee's deed to complete and submit to the county recorder a *declaration of additional funds* if the beneficiary receives payment based on private mortgage insurance in addition to the proceeds of a sale.

HISTORY

Arizona Revised Statutes (A.R.S.) § 11-1133 requires an *affidavit of legal value* (affidavit) to be recorded with each deed evidencing a transfer of title or any contract relating to the sale of real property. This affidavit must include specific information on a form approved by the Department of Revenue (DOR), including the name and address of the buyer and seller, the complete legal description of the property, and the total consideration paid for the property including the amount of cash down payment and the method of financing. The county recorder is prohibited from accepting any deed and contract if the affidavit is not attached unless there is a statutory exemption provided.

A *trustee sale* is a verbal auction where the highest bidder can purchase the trust property being auctioned. If a person defaults on a mortgage, the financial institution responsible for the mortgage loan may authorize a trustee's sale of the property or home.

Private mortgage insurance (PMI) is an insurance policy that a mortgage holder buys on behalf of a lender to protect the lender in the event of default on the mortgage. Generally, lenders require mortgage holders to purchase PMI if a home is purchased with a down payment of less than 20% of the purchase price.

PROVISIONS

- States that if a beneficiary of a foreclosed trustee's deed receives payment based on PMI in addition to the proceeds of the sale, they must submit a *declaration of additional funds* on a form approved by DOR to the county recorder within four months of the trustee's sale.
- Specifies what must be contained within a declaration of additional funds.
- Directs the trustee to execute and submit the trustee's deed to the county recorder within seven business days after receipt of payment and states that the recording of the deed shall constitute delivery of the deed to the purchaser.
- Requires a trustee to provide an unrecorded copy of the signed trustee's deed to the purchaser upon request.
- States that on or before the date of the trustee's sale, a trustee must notify the beneficiary of their obligation to submit a declaration of additional funds pursuant to statute.
- Makes technical and conforming changes.