

76-1010. Sale of trust property; bid; payment; delivery of deed; recitals; effect; rights of trustor; terminated, when.

(1) The purchaser at the sale shall forthwith pay the price bid, and upon receipt of payment, the trustee shall execute and deliver his or her deed to such purchaser. The trustee's deed may contain recitals of compliance with the requirements of the Nebraska Trust Deeds Act relating to the exercise of the power of sale and sale of the property described therein, including recitals concerning any mailing, personal delivery, and publication of the notice of default, any mailing and the publication and posting of notice of sale, and the conduct of sale. Such recitals shall constitute prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value and without notice.

(2) The trustee's deed shall operate to convey to the purchaser, without right of redemption, the trustee's title and all right, title, interest, and claim of the trustor and his or her successors in interest and of all persons claiming by, through, or under them, in and to the property sold, including all such right, title, interest, and claim in and to such property acquired by the trustor or his or her successors in interest subsequent to the execution of the trust deed. All right, title, interest, and claim of the trustor and his or her successors in interest, and of all persons claiming by, through, or under them, in and to the property sold, including all such right, title, interest, and claim in and to such property acquired by the trustor or his or her successors in interest subsequent to the execution of the trust deed, shall be deemed to be terminated as of the time the trustee or the attorney for the trustee accepts the highest bid at the time of the sale.

Source: Laws 1965, c. 451, § 10, p. 1429; Laws 2004, LB 999, § 46.

Annotations

The term "forthwith" as used in subsection (1) of this section requires the purchaser at a trustee's sale to pay the amount of its bid within a reasonable time under the circumstances of the case. *Gilroy v. Ryberg*, 266 Neb. 617, 667 N.W.2d 544 (2003).

This section allows for an affirmative defense whereby bona fide purchasers and encumbrancers for value and without notice can use the recitals in the trustee's deed to defeat any claim that the trustee's sale did not comply with the requirements of the Nebraska Trust Deeds Act relating to the exercise of the power of sale and sale of the property described therein. *Gilroy v. Ryberg*, 266 Neb. 617, 667 N.W.2d 544 (2003).