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HOUSE BILL 1158

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State of Washington                      57th Legislature                      2001 Regular Session

By Representatives Lantz, Carrell and Benson

Read first time 01/18/2001. Referred to Committee on Judiciary.

1            AN ACT Relating to reconveyance of deeds of trust; amending RCW  
2 61.24.005, 61.24.010, and 61.24.110; and adding a new section to  
3 chapter 61.24 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            **Sec. 1.** RCW 61.24.005 and 1998 c 295 s 1 are each amended to read  
6 as follows:

7            The definitions in this section apply throughout this chapter  
8 unless the context clearly requires otherwise.

9            (1) "Grantor" means a person, or its successors, who executes a  
10 deed of trust to encumber the person's interest in property as  
11 security for the performance of all or part of the borrower's  
12 obligations.

13            (2) "Beneficiary" means the holder of the instrument or  
14 document evidencing the obligations secured by the deed of trust,  
15 excluding persons holding the same as security for a different  
16 obligation.

17            (3) "Affiliate of beneficiary" means any entity which controls,  
18 is controlled by, or is under common control with a beneficiary.

1 (4) "Trustee" means the person designated as the trustee in the  
2 deed of trust or appointed under RCW 61.24.010(2).

3 (5) "Borrower" means a person or a general partner in a  
4 partnership, including a joint venture, that is liable for all or  
5 part of the obligations secured by the deed of trust under the  
6 instrument or other document that is the principal evidence of  
7 such obligations, or the person's successors if they are liable  
8 for those obligations under a written agreement with the  
9 beneficiary.

10 (6) "Guarantor" means any person and its successors who is not  
11 a borrower and who guarantees any of the obligations secured by a  
12 deed of trust in any written agreement other than the deed of  
13 trust.

14 (7) "Commercial loan" means a loan that is not made primarily  
15 for personal, family, or household purposes.

16 (8) "Trustee's sale" means a nonjudicial sale under a deed of  
17 trust undertaken pursuant to this chapter.

18 (9) "Fair value" means the value of the property encumbered by  
19 a deed of trust that is sold pursuant to a trustee's sale. This  
20 value shall be determined by the court or other appropriate  
21 adjudicator by reference to the most probable price, as of the  
22 date of the trustee's sale, which would be paid in cash or other  
23 immediately available funds, after deduction of prior liens and  
24 encumbrances with interest to the date of the trustee's sale, for  
25 which the property would sell on such date after reasonable  
26 exposure in the market under conditions requisite to a fair sale,  
27 with the buyer and seller each acting prudently, knowledgeably,  
28 and for self-interest, and assuming that neither is under duress.

29 (10) "Record" and "recorded" includes the appropriate  
30 registration proceedings, in the instance of registered land.

31 (11) "Person" means any natural person, or legal or  
32 governmental entity.

33 (12) "Person entitled" means the borrower or grantor of the  
34 deed of trust or the present vested owner of the property  
35 encumbered by the deed of trust, and may include, if the  
36 obligation has been satisfied, either (a) an escrow company  
37 licensed to do business in this state, (b) a title insurance  
38 company authorized to insure title to real property under the laws

1 of this state, or (c) an agent of such a title insurance company,  
2 which escrow company, title insurance company, or agent of the  
3 title insurance company has paid the obligation in full based on a  
4 written statement from the beneficiary as to the amounts owed or a  
5 demand therefore. For the purposes of this section only, any such  
6 escrow company, title insurance company, or agent of the title  
7 insurance company that has paid the obligation based on the  
8 written statement or demand from the beneficiary is considered a  
9 lawful agent of the borrower or the grantor of the deed of trust,  
10 or present vested owner of the property encumbered by the deed of  
11 trust, or the heirs, executors, administrators, successors, or  
12 assigns of the borrower, grantor, or owner.

13       **Sec. 2.** RCW 61.24.010 and 1998 c 295 s 2 are each amended to read  
14 as follows:

15       (1) The trustee of a deed of trust under this chapter shall be:

16       (a) Any domestic corporation incorporated under Title 23B, 30,  
17 31, 32, or 33 RCW of which at least one officer is a Washington  
18 resident; or

19       (b) Any title insurance company authorized to insure title to  
20 real property under the laws of this state, or its agents; or

21       (c) Any attorney who is an active member of the Washington  
22 state bar association at the time the attorney is named trustee;  
23 or

24       (d) Any professional corporation incorporated under chapter  
25 18.100 RCW, any professional limited liability company formed  
26 under chapter 25.15 RCW, any general partnership, including  
27 limited liability partnerships, formed under chapter 25.04 RCW,  
28 all of whose shareholders, members, or partners, respectively, are  
29 either licensed attorneys or entities, provided all of the owners  
30 of those entities are licensed attorneys, or any domestic  
31 corporation wholly owned by any of the entities under this  
32 subsection (1)(d); or

33       (e) Any agency or instrumentality of the United States  
34 government; or

35       (f) Any national bank, savings bank, or savings and loan  
36 association chartered under the laws of the United States.

37       (2) The trustee may resign at its own election or be replaced

1 by the beneficiary. The trustee shall give prompt written notice of  
2 its resignation to the beneficiary. The resignation of the trustee  
3 shall become effective upon the recording of the notice of  
4 resignation in each county in which the deed of trust is  
5 recorded. If a trustee is not appointed in the deed of trust, or  
6 upon the resignation, incapacity, disability, absence, or death of  
7 the trustee, or the election of the beneficiary to replace the  
8 trustee, the beneficiary shall appoint a trustee or a successor  
9 trustee. In addition, a person entitled may, if the obligation has  
10 been paid in full based upon a written statement or demand from  
11 the beneficiary, and if the beneficiary has not requested the  
12 reconveyance as provided for in this chapter, appoint a successor  
13 trustee. Upon recording the appointment of a successor trustee in  
14 each county in which the deed of trust is recorded, the successor  
15 trustee shall be vested with all powers of an original trustee.

16 **Sec. 3.** RCW 61.24.110 and 1998 c 295 s 13 are each amended to read  
17 as follows:

18 Upon satisfaction in full of the obligation secured by the deed  
19 of trust, the beneficiary shall forward a request for reconveyance  
20 of the deed of trust, together with proof of satisfaction or  
21 written verification to the trustee within thirty calendar days of  
22 satisfaction. If the obligation has been paid in full and the  
23 beneficiary has not requested the reconveyance as required by this  
24 chapter, a person entitled may forward a request for reconveyance,  
25 including a statement as to the reason, to the trustee. The  
26 trustee shall, within thirty calendar days of receipt of the  
27 written request for reconveyance made by either the beneficiary or  
28 other person entitled, reconvey all or any part of the property  
29 encumbered by the deed of trust to the ((person entitled thereto  
30 on written request of the beneficiary, or upon satisfaction of the  
31 obligation secured and written request for reconveyance made by  
32 the beneficiary or the person entitled thereto)) grantor under the  
33 deed of trust or the present owner of the property encumbered by  
34 the deed of trust. The sole remedy of a party against a trustee who  
35 fails to reconvey within the thirty-day period is limited to the  
36 authority to appoint a successor trustee as authorized by this  
37 chapter.

1        NEW SECTION.    **Sec. 4.**    A new section is added to chapter 61.24  
2    RCW to read as follows:

3        If the beneficiary fails to request a reconveyance within the  
4    thirty-day period required by this chapter, the beneficiary  
5    forfeits the right to request the reconveyance in favor of a  
6    person entitled to reconveyance.    Upon the forfeiture, the  
7    beneficiary becomes liable to the trustee for all reasonable fees  
8    and costs for the reconveyance.    Nothing in this chapter, however,  
9    invalidates a request for reconveyance made by the beneficiary  
10    after the expiration of the thirty-day period; subject however to  
11    the liability of the beneficiary resulting from the forfeiture of  
12    the right to make the request for reconveyance.

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