

SSB 5378 - H COMM AMD  
By Committee on Judiciary

ADOPTED 03/06/2008

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 61.24.010 and 1998 c 295 s 2 are each amended to read  
4 as follows:

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

6 (a) Any domestic corporation incorporated under Title 23B, 30, 31,  
7 32, or 33 RCW of which at least one officer is a Washington resident;  
8 or

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

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

13 (d) Any professional corporation incorporated under chapter 18.100  
14 RCW, any professional limited liability company formed under chapter  
15 25.15 RCW, any general partnership, including limited liability  
16 partnerships, formed under chapter 25.04 RCW, all of whose  
17 shareholders, members, or partners, respectively, are either licensed  
18 attorneys or entities, provided all of the owners of those entities are  
19 licensed attorneys, or any domestic corporation wholly owned by any of  
20 the entities under this subsection (1)(d); or

21 (e) Any agency or instrumentality of the United States government;  
22 or

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

25 (2) The trustee may resign at its own election or be replaced by  
26 the beneficiary. The trustee shall give prompt written notice of its  
27 resignation to the beneficiary. The resignation of the trustee shall  
28 become effective upon the recording of the notice of resignation in  
29 each county in which the deed of trust is recorded. If a trustee is  
30 not appointed in the deed of trust, or upon the resignation,

1 incapacity, disability, absence, or death of the trustee, or the  
2 election of the beneficiary to replace the trustee, the beneficiary  
3 shall appoint a trustee or a successor trustee. Upon recording the  
4 appointment of a successor trustee in each county in which the deed of  
5 trust is recorded, the successor trustee shall be vested with all  
6 powers of an original trustee.

7 (3) The trustee or successor trustee shall have no fiduciary duty  
8 or fiduciary obligation to the grantor or other persons having an  
9 interest in the property subject to the deed of trust.

10 (4) The trustee or successor trustee shall act impartially between  
11 the borrower, grantor, and beneficiary.

12 **Sec. 2.** RCW 61.24.030 and 1998 c 295 s 4 are each amended to read  
13 as follows:

14 It shall be requisite to a trustee's sale:

15 (1) That the deed of trust contains a power of sale;

16 (2) That the deed of trust contains a statement that the real  
17 property conveyed is not used principally for agricultural purposes;  
18 provided, if the statement is false on the date the deed of trust was  
19 granted or amended to include that statement, and false on the date of  
20 the trustee's sale, then the deed of trust must be foreclosed  
21 judicially. Real property is used for agricultural purposes if it is  
22 used in an operation that produces crops, livestock, or aquatic goods;

23 (3) That a default has occurred in the obligation secured or a  
24 covenant of the grantor, which by the terms of the deed of trust makes  
25 operative the power to sell;

26 (4) That no action commenced by the beneficiary of the deed of  
27 trust is now pending to seek satisfaction of an obligation secured by  
28 the deed of trust in any court by reason of the grantor's default on  
29 the obligation secured: PROVIDED, That (a) the seeking of the  
30 appointment of a receiver shall not constitute an action for purposes  
31 of this chapter; and (b) if a receiver is appointed, the grantor shall  
32 be entitled to any rents or profits derived from property subject to a  
33 homestead as defined in RCW 6.13.010. If the deed of trust was granted  
34 to secure a commercial loan, this subsection shall not apply to actions  
35 brought to enforce any other lien or security interest granted to  
36 secure the obligation secured by the deed of trust being foreclosed;

1 (5) That the deed of trust has been recorded in each county in  
2 which the land or some part thereof is situated;

3 (6) That prior to the date of the notice of trustee's sale and  
4 continuing thereafter through the date of the trustee's sale, the  
5 trustee must (~~have~~) maintain a street address in this state where  
6 personal service of process may be made, and the trustee must maintain  
7 a physical presence and have telephone service at such address; and

8 (7) That at least thirty days before notice of sale shall be  
9 recorded, transmitted or served, written notice of default shall be  
10 transmitted by the beneficiary or trustee to the borrower and grantor  
11 at their last known addresses by both first class and either registered  
12 or certified mail, return receipt requested, and the beneficiary or  
13 trustee shall cause to be posted in a conspicuous place on the  
14 premises, a copy of the notice, or personally served on the borrower  
15 and grantor. This notice shall contain the following information:

16 (a) A description of the property which is then subject to the deed  
17 of trust;

18 (b) Each county in which the deed of trust is recorded and the  
19 document number given to the deed of trust upon recording by each  
20 county auditor or recording officer;

21 (c) That the beneficiary has declared the borrower or grantor to be  
22 in default, and a concise statement of the default alleged;

23 (d) An itemized account of the amount or amounts in arrears if the  
24 default alleged is failure to make payments;

25 (e) An itemized account of all other specific charges, costs, or  
26 fees that the borrower, grantor, or any guarantor is or may be obliged  
27 to pay to reinstate the deed of trust before the recording of the  
28 notice of sale;

29 (f) The total of (d) and (e) of this subsection, designated clearly  
30 and conspicuously as the amount necessary to reinstate the note and  
31 deed of trust before the recording of the notice of sale;

32 (g) That failure to cure the alleged default within thirty days of  
33 the date of mailing of the notice, or if personally served, within  
34 thirty days of the date of personal service thereof, may lead to  
35 recordation, transmittal, and publication of a notice of sale, and that  
36 the property described in (a) of this subsection may be sold at public  
37 auction at a date no less than one hundred twenty days in the future;

1 (h) That the effect of the recordation, transmittal, and  
2 publication of a notice of sale will be to (i) increase the costs and  
3 fees and (ii) publicize the default and advertise the grantor's  
4 property for sale;

5 (i) That the effect of the sale of the grantor's property by the  
6 trustee will be to deprive the grantor of all their interest in the  
7 property described in (a) of this subsection; and

8 (j) That the borrower, grantor, and any guarantor has recourse to  
9 the courts pursuant to RCW 61.24.130 to contest the alleged default on  
10 any proper ground.

11 **Sec. 3.** RCW 61.24.040 and 1998 c 295 s 5 are each amended to read  
12 as follows:

13 A deed of trust foreclosed under this chapter shall be foreclosed  
14 as follows:

15 (1) At least ninety days before the sale, the trustee shall:

16 (a) Record a notice in the form described in RCW 61.24.040(1)(f) in  
17 the office of the auditor in each county in which the deed of trust is  
18 recorded;

19 (b) To the extent the trustee elects to foreclose its lien or  
20 interest, or the beneficiary elects to preserve its right to seek a  
21 deficiency judgment against a borrower or grantor under RCW  
22 61.24.100(3)(a), and if their addresses are stated in a recorded  
23 instrument evidencing their interest, lien, or claim of lien, or an  
24 amendment thereto, or are otherwise known to the trustee, cause a copy  
25 of the notice of sale described in RCW 61.24.040(1)(f) to be  
26 transmitted by both first class and either certified or registered  
27 mail, return receipt requested, to the following persons or their legal  
28 representatives, if any, at such address:

29 (i) The borrower and grantor;

30 (ii) The beneficiary of any deed of trust or mortgagee of any  
31 mortgage, or any person who has a lien or claim of lien against the  
32 property, that was recorded subsequent to the recordation of the deed  
33 of trust being foreclosed and before the recordation of the notice of  
34 sale;

35 (iii) The vendee in any real estate contract, the lessee in any  
36 lease, or the holder of any conveyances of any interest or estate in  
37 any portion or all of the property described in such notice, if that

1 contract, lease, or conveyance of such interest or estate, or a  
2 memorandum or other notice thereof, was recorded after the recordation  
3 of the deed of trust being foreclosed and before the recordation of the  
4 notice of sale;

5 (iv) The last holder of record of any other lien against or  
6 interest in the property that is subject to a subordination to the deed  
7 of trust being foreclosed that was recorded before the recordation of  
8 the notice of sale;

9 (v) The last holder of record of the lien of any judgment  
10 subordinate to the deed of trust being foreclosed; and

11 (vi) The occupants of property consisting solely of a single-family  
12 residence, or a condominium, cooperative, or other dwelling unit in a  
13 multiplex or other building containing fewer than five residential  
14 units, whether or not the occupant's rental agreement is recorded,  
15 which notice may be a single notice addressed to "occupants" for each  
16 unit known to the trustee or beneficiary;

17 (c) Cause a copy of the notice of sale described in RCW  
18 61.24.040(1)(f) to be transmitted by both first class and either  
19 certified or registered mail, return receipt requested, to the  
20 plaintiff or the plaintiff's attorney of record, in any court action to  
21 foreclose a lien or other encumbrance on all or any part of the  
22 property, provided a court action is pending and a lis pendens in  
23 connection therewith is recorded in the office of the auditor of any  
24 county in which all or part of the property is located on the date the  
25 notice is recorded;

26 (d) Cause a copy of the notice of sale described in RCW  
27 61.24.040(1)(f) to be transmitted by both first class and either  
28 certified or registered mail, return receipt requested, to any person  
29 who has recorded a request for notice in accordance with RCW 61.24.045,  
30 at the address specified in such person's most recently recorded  
31 request for notice;

32 (e) Cause a copy of the notice of sale described in RCW  
33 61.24.040(1)(f) to be posted in a conspicuous place on the property, or  
34 in lieu of posting, cause a copy of said notice to be served upon any  
35 occupant of the property;

36 (f) The notice shall be in substantially the following form:

37 NOTICE OF TRUSTEE'S SALE

38 I.

1 NOTICE IS HEREBY GIVEN that the undersigned Trustee will on the . . . .  
2 day of . . . . ., . . ., at the hour of . . . . o'clock . . . . M. at  
3 . . . . . [street  
4 address and location if inside a building] in the City of . . . . .,  
5 State of Washington, sell at public auction to the highest and best  
6 bidder, payable at the time of sale, the following described real  
7 property, situated in the County(ies) of . . . . ., State of  
8 Washington, to-wit:

9 [If any personal property is to be included in the trustee's  
10 sale, include a description that reasonably identifies such  
11 personal property]

12 which is subject to that certain Deed of Trust dated . . . . .,  
13 . . ., recorded . . . . ., . . ., under Auditor's File No. . . . .,  
14 records of . . . . . County, Washington, from . . . . ., as  
15 Grantor, to . . . . ., as Trustee, to secure an obligation in  
16 favor of . . . . ., as Beneficiary, the beneficial interest in  
17 which was assigned by . . . . ., under an Assignment recorded  
18 under Auditor's File No. . . . . [Include recording information for  
19 all counties if the Deed of Trust is recorded in more than one county.]

20 II.

21 No action commenced by the Beneficiary of the Deed of Trust is now  
22 pending to seek satisfaction of the obligation in any Court by reason  
23 of the Borrower's or Grantor's default on the obligation secured by the  
24 Deed of Trust.

25 [If there is another action pending to foreclose other security  
26 for all or part of the same debt, qualify the statement and  
27 identify the action.]

28 III.

29 The default(s) for which this foreclosure is made is/are as follows:  
30 [If default is for other than payment of money, set forth the  
31 particulars]

32 Failure to pay when due the following amounts which are now in arrears:

33 IV.

34 The sum owing on the obligation secured by the Deed of Trust is:

1 Principal \$ . . . . ., together with interest as provided in the note  
2 or other instrument secured from the . . . . day of . . . . ., . . . .,  
3 and such other costs and fees as are due under the note or other  
4 instrument secured, and as are provided by statute.

5 V.

6 The above-described real property will be sold to satisfy the expense  
7 of sale and the obligation secured by the Deed of Trust as provided by  
8 statute. The sale will be made without warranty, express or implied,  
9 regarding title, possession, or encumbrances on the . . . . day of  
10 . . . . ., . . . . The default(s) referred to in paragraph III must be  
11 cured by the . . . . day of . . . . ., . . . . (11 days before the sale  
12 date), to cause a discontinuance of the sale. The sale will be  
13 discontinued and terminated if at any time on or before the . . . . day  
14 of . . . . ., . . . ., (11 days before the sale date), the default(s)  
15 as set forth in paragraph III is/are cured and the Trustee's fees and  
16 costs are paid. The sale may be terminated any time after the . . . .  
17 day of . . . . ., . . . . (11 days before the sale date), and before  
18 the sale by the Borrower, Grantor, any Guarantor, or the holder of any  
19 recorded junior lien or encumbrance paying the entire principal and  
20 interest secured by the Deed of Trust, plus costs, fees, and advances,  
21 if any, made pursuant to the terms of the obligation and/or Deed of  
22 Trust, and curing all other defaults.

23 VI.

24 A written notice of default was transmitted by the Beneficiary or  
25 Trustee to the Borrower and Grantor at the following addresses:

26  
27 .....  
28 .....  
29 .....

30 by both first class and certified mail on the . . . . day of  
31 . . . . ., . . . ., proof of which is in the possession of the Trustee;  
32 and the Borrower and Grantor were personally served on the . . . . day  
33 of . . . . ., . . . ., with said written notice of default or the  
34 written notice of default was posted in a conspicuous place on the real

1 property described in paragraph I above, and the Trustee has possession  
2 of proof of such service or posting.

3 VII.

4 The Trustee whose name and address are set forth below will provide in  
5 writing to anyone requesting it, a statement of all costs and fees due  
6 at any time prior to the sale.

7 VIII.

8 The effect of the sale will be to deprive the Grantor and all those who  
9 hold by, through or under the Grantor of all their interest in the  
10 above-described property.

11 IX.

12 Anyone having any objection to the sale on any grounds whatsoever will  
13 be afforded an opportunity to be heard as to those objections if they  
14 bring a lawsuit to restrain the sale pursuant to RCW 61.24.130.  
15 Failure to bring such a lawsuit may result in a waiver of any proper  
16 grounds for invalidating the Trustee's sale.

17 [Add Part X to this notice if applicable under RCW 61.24.040(9)]

18  
19 .....  
20 ..... , Trustee  
21 ..... }  
22 ..... } Address  
23 ..... }  
24 ..... } Phone

25 [Acknowledgment]

26 (2) In addition to providing the borrower and grantor the notice of  
27 sale described in RCW 61.24.040(1)(f), the trustee shall include with  
28 the copy of the notice which is mailed to the grantor, a statement to  
29 the grantor in substantially the following form:

30 NOTICE OF FORECLOSURE  
31 Pursuant to the Revised Code of Washington,  
32 Chapter 61.24 RCW

33 The attached Notice of Trustee's Sale is a consequence of  
34 default(s) in the obligation to . . . . ., the Beneficiary of your



1 Deed of Trust and owner of the obligation secured thereby. Unless the  
 2 default(s) is/are cured, your property will be sold at auction on the  
 3 . . . . day of . . . . ., . . . .

4 To cure the default(s), you must bring the payments current, cure  
 5 any other defaults, and pay accrued late charges and other costs,  
 6 advances, and attorneys' fees as set forth below by the . . . . day of  
 7 . . . . ., . . . . [11 days before the sale date]. To date, these  
 8 arrears and costs are as follows:

	Currently due	Estimated amount
	to reinstate	that will be due
	on . . . . .	to reinstate
	. . . . .	on . . . . .
		(11 days before
		the date set
		for sale)
17	Delinquent payments	
18	from . . . . .,	
19	. . . , in the	
20	amount of	
21	\$ . . . /mo.:	\$ . . . .      \$ . . . .
22	Late charges in	
23	the total	
24	amount of:	\$ . . . .      \$ . . . .
25		Estimated
26		Amounts
27	Attorneys' fees:	\$ . . . .      \$ . . . .
28	Trustee's fee:	\$ . . . .      \$ . . . .
29	Trustee's expenses:	
30	(Itemization)	
31	Title report	\$ . . . .      \$ . . . .
32	Recording fees	\$ . . . .      \$ . . . .
33	Service/Posting	
34	of Notices	\$ . . . .      \$ . . . .

1	Postage/Copying		
2	expense	\$....	\$....
3	Publication	\$....	\$....
4	Telephone		\$....
5	charges	\$....	
6	Inspection fees	\$....	\$....
7	.....	\$....	\$....
8	.....	\$....	\$....
9	TOTALS	\$....	\$....

10 To pay off the entire obligation secured by your Deed of Trust as  
11 of the . . . . . day of . . . . . you must pay a total of \$. . . . .  
12 in principal, \$. . . . . in interest, plus other costs and advances  
13 estimated to date in the amount of \$. . . . . From and after the  
14 date of this notice you must submit a written request to the Trustee to  
15 obtain the total amount to pay off the entire obligation secured by  
16 your Deed of Trust as of the payoff date.

17 As to the defaults which do not involve payment of money to the  
18 Beneficiary of your Deed of Trust, you must cure each such default.  
19 Listed below are the defaults which do not involve payment of money to  
20 the Beneficiary of your Deed of Trust. Opposite each such listed  
21 default is a brief description of the action necessary to cure the  
22 default and a description of the documentation necessary to show that  
23 the default has been cured.

24	Default	Description of Action Required to Cure and
25		Documentation Necessary to Show Cure
26	.....	.....
27		.....
28		.....
29	.....	.....
30		.....
31		.....

32 You may reinstate your Deed of Trust and the obligation secured  
33 thereby at any time up to and including the . . . . . day of . . . . . ,  
34 . . . [11 days before the sale date], by paying the amount set forth or  
35 estimated above and by curing any other defaults described above. Of  
36 course, as time passes other payments may become due, and any further  
37 payments coming due and any additional late charges must be added to

1 your reinstating payment. Any new defaults not involving payment of  
2 money that occur after the date of this notice must also be cured in  
3 order to effect reinstatement. In addition, because some of the  
4 charges can only be estimated at this time, and because the amount  
5 necessary to reinstate or to pay off the entire indebtedness may  
6 include presently unknown expenditures required to preserve the  
7 property or to comply with state or local law, it will be necessary for  
8 you to contact the Trustee before the time you tender reinstatement or  
9 the payoff amount so that you may be advised of the exact amount you  
10 will be required to pay. Tender of payment or performance must be made  
11 to: . . . . ., whose address is . . . . ., telephone ( )  
12 . . . . . AFTER THE . . . . DAY OF . . . . ., . . . ., YOU MAY NOT  
13 REINSTATE YOUR DEED OF TRUST BY PAYING THE BACK PAYMENTS AND COSTS AND  
14 FEES AND CURING THE OTHER DEFAULTS AS OUTLINED ABOVE. The Trustee will  
15 respond to any written request for current payoff or reinstatement  
16 amounts within ten days of receipt of your written request. In such a  
17 case, you will only be able to stop the sale by paying, before the  
18 sale, the total principal balance (\$ . . . . .) plus accrued  
19 interest, costs and advances, if any, made pursuant to the terms of the  
20 documents and by curing the other defaults as outlined above.

21 You may contest this default by initiating court action in the  
22 Superior Court of the county in which the sale is to be held. In such  
23 action, you may raise any legitimate defenses you have to this default.  
24 A copy of your Deed of Trust and documents evidencing the obligation  
25 secured thereby are enclosed. You may wish to consult a lawyer. Legal  
26 action on your part may prevent or restrain the sale, but only if you  
27 persuade the court of the merits of your defense.

28 The court may grant a restraining order or injunction to restrain  
29 a trustee's sale pursuant to RCW 61.24.130 upon five days notice to the  
30 trustee of the time when, place where, and the judge before whom the  
31 application for the restraining order or injunction is to be made.  
32 This notice shall include copies of all pleadings and related documents  
33 to be given to the judge. Notice and other process may be served on  
34 the trustee at:

35  
36  
37

NAME: .....  
ADDRESS: .....

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.....  
TELEPHONE NUMBER: .....

If you do not reinstate the secured obligation and your Deed of Trust in the manner set forth above, or if you do not succeed in restraining the sale by court action, your property will be sold. The effect of such sale will be to deprive you and all those who hold by, through or under you of all interest in the property;

(3) In addition, the trustee shall cause a copy of the notice of sale described in RCW 61.24.040(1)(f) (excluding the acknowledgment) to be published in a legal newspaper in each county in which the property or any part thereof is situated, once on or between the thirty-fifth and twenty-eighth day before the date of sale, and once on or between the fourteenth and seventh day before the date of sale;

(4) On the date and at the time designated in the notice of sale, the trustee or its authorized agent shall sell the property at public auction to the highest bidder. The trustee may sell the property in gross or in parcels as the trustee shall deem most advantageous;

(5) The place of sale shall be at any designated public place within the county where the property is located and if the property is in more than one county, the sale may be in any of the counties where the property is located. The sale shall be on Friday, or if Friday is a legal holiday on the following Monday, and during the hours set by statute for the conduct of sales of real estate at execution;

(6) The trustee has no obligation to, but may, for any cause the trustee deems advantageous, continue the sale for a period or periods not exceeding a total of one hundred twenty days by (a) a public proclamation at the time and place fixed for sale in the notice of sale and if the continuance is beyond the date of sale, by giving notice of the new time and place of the sale by both first class and either certified or registered mail, return receipt requested, to the persons specified in RCW 61.24.040(1)(b) (i) and (ii) to be deposited in the mail (i) not less than four days before the new date fixed for the sale if the sale is continued for up to seven days; or (ii) not more than three days after the date of the continuance by oral proclamation if the sale is continued for more than seven days, or, alternatively, (b) by giving notice of the time and place of the postponed sale in the manner and to the persons specified in RCW 61.24.040(1) (b), (c), (d), and (e) and publishing a copy of such notice once in the newspaper(s)

1 described in RCW 61.24.040(3), more than seven days before the date  
2 fixed for sale in the notice of sale. No other notice of the postponed  
3 sale need be given;

4 (7) The purchaser shall forthwith pay the price bid and on payment  
5 the trustee shall execute to the purchaser its deed; the deed shall  
6 recite the facts showing that the sale was conducted in compliance with  
7 all of the requirements of this chapter and of the deed of trust, which  
8 recital shall be prima facie evidence of such compliance and conclusive  
9 evidence thereof in favor of bona fide purchasers and encumbrancers for  
10 value, except that these recitals shall not affect the lien or interest  
11 of any person entitled to notice under RCW 61.24.040(1), if the trustee  
12 fails to give the required notice to such person. In such case, the  
13 lien or interest of such omitted person shall not be affected by the  
14 sale and such omitted person shall be treated as if such person was the  
15 holder of the same lien or interest and was omitted as a party  
16 defendant in a judicial foreclosure proceeding;

17 (8) The sale as authorized under this chapter shall not take place  
18 less than one hundred ninety days from the date of default in any of  
19 the obligations secured.

20 (9) If the trustee elects to foreclose the interest of any occupant  
21 or tenant of property comprised solely of a single-family residence, or  
22 a condominium, cooperative, or other dwelling unit in a multiplex or  
23 other building containing fewer than five residential units, the  
24 following notice shall be included as Part X of the Notice of Trustee's  
25 Sale:

26 X.

27 NOTICE TO OCCUPANTS OR TENANTS

28 The purchaser at the trustee's sale is entitled to possession of the  
29 property on the 20th day following the sale, as against the grantor  
30 under the deed of trust (the owner) and anyone having an interest  
31 junior to the deed of trust, including occupants and tenants. After  
32 the 20th day following the sale the purchaser has the right to evict  
33 occupants and tenants by summary proceedings under the unlawful  
34 detainer act, chapter 59.12 RCW.

35 (10) Only one copy of all notices required by this chapter need be  
36 given to a person who is both the borrower and the grantor. All  
37 notices required by this chapter that are given to a general

1 partnership are deemed given to each of its general partners, unless  
2 otherwise agreed by the parties.

3 **Sec. 4.** RCW 61.24.045 and 1985 c 193 s 1 are each amended to read  
4 as follows:

5 Any person desiring a copy of any notice of sale described in RCW  
6 61.24.040(1)(f) under any deed of trust, other than a person entitled  
7 to receive such a notice under RCW 61.24.040(1) (b) or (c), must, after  
8 the recordation of such deed of trust and before the recordation of the  
9 notice of sale, cause to be filed for record, in the office of the  
10 auditor of any county in which the deed of trust is recorded, a duly  
11 acknowledged request for a copy of any notice of sale. The request  
12 shall be signed and acknowledged by the person to be notified or such  
13 person's agent, attorney, or representative; shall set forth the name,  
14 mailing address, and telephone number, if any, of the person or persons  
15 to be notified; shall identify the deed of trust by stating the names  
16 of the parties thereto, the date the deed of trust was recorded, the  
17 legal description of the property encumbered by the deed of trust, and  
18 the auditor's file number under which the deed of trust is recorded;  
19 and shall be in substantially the following form:

20 REQUEST FOR NOTICE

21 Request is hereby made that a copy of any notice of sale described in  
22 RCW 61.24.040(1)(f) under that certain Deed of Trust dated . . . . . ,  
23 ((19)) 20. . . , recorded on . . . . . , ((19)) 20. . . , under  
24 auditor's file No. . . . . , records of . . . . . County,  
25 Washington, from . . . . . , as Grantor, to . . . . . , as  
26 Trustee, to secure an obligation in favor of . . . . . , as  
27 Beneficiary, and affecting the following described real property:

28 (Legal Description)

29 be sent by both first class and either registered or certified mail,  
30 return receipt requested, to . . . . . at . . . . .

31 Dated this . . . . day of . . . . . , ((19)) 20. . .

32 .....

33 Signature

34 (Acknowledgment)

35 A request for notice under this section shall not affect title to, or

1 be deemed notice to any person that any person has any right, title,  
2 interest in, lien or charge upon, the property described in the request  
3 for notice.

4 **Sec. 5.** RCW 61.24.130 and 1998 c 295 s 14 are each amended to read  
5 as follows:

6 (1) Nothing contained in this chapter shall prejudice the right of  
7 the borrower, grantor, any guarantor, or any person who has an interest  
8 in, lien, or claim of lien against the property or some part thereof,  
9 to restrain, on any proper legal or equitable ground, a trustee's sale.  
10 The court shall require as a condition of granting the restraining  
11 order or injunction that the applicant pay to the clerk of the court  
12 the sums that would be due on the obligation secured by the deed of  
13 trust if the deed of trust was not being foreclosed:

14 (a) In the case of default in making the periodic payment of  
15 principal, interest, and reserves, such sums shall be the periodic  
16 payment of principal, interest, and reserves paid to the clerk of the  
17 court every thirty days.

18 (b) In the case of default in making payment of an obligation then  
19 fully payable by its terms, such sums shall be the amount of interest  
20 accruing monthly on said obligation at the nondefault rate, paid to the  
21 clerk of the court every thirty days.

22 In the case of default in performance of any nonmonetary obligation  
23 secured by the deed of trust, the court shall impose such conditions as  
24 it deems just.

25 In addition, the court may condition granting the restraining order  
26 or injunction upon the giving of security by the applicant, in such  
27 form and amount as the court deems proper, for the payment of such  
28 costs and damages, including attorneys' fees, as may be later found by  
29 the court to have been incurred or suffered by any party by reason of  
30 the restraining order or injunction. The court may consider, upon  
31 proper showing, the grantor's equity in the property in determining the  
32 amount of said security.

33 (2) No court may grant a restraining order or injunction to  
34 restrain a trustee's sale unless the person seeking the restraint gives  
35 five days notice to the trustee of the time when, place where, and the  
36 judge before whom the application for the restraining order or  
37 injunction is to be made. This notice shall include copies of all

1 pleadings and related documents to be given to the judge. No judge may  
2 act upon such application unless it is accompanied by proof, evidenced  
3 by return of a sheriff, the sheriff's deputy, or by any person eighteen  
4 years of age or over who is competent to be a witness, that the notice  
5 has been served on the trustee.

6 (3) If the restraining order or injunction is dissolved after the  
7 date of the trustee's sale set forth in the notice as provided in RCW  
8 61.24.040(1)(f), the court granting such restraining order or  
9 injunction, or before whom the order or injunction is returnable,  
10 shall, at the request of the trustee, set a new sale date which shall  
11 be not less than forty-five days from the date of the order dissolving  
12 the restraining order. The trustee shall:

13 (a) Comply with the requirements of RCW 61.24.040(1) (a) through  
14 (f) at least thirty days before the new sale date; and

15 (b) Cause a copy of the notice of trustee's sale as provided in RCW  
16 61.24.040(1)(f) to be published in a legal newspaper in each county in  
17 which the property or any part thereof is situated once between the  
18 thirty-fifth and twenty-eighth day before the sale and once between the  
19 fourteenth and seventh day before the sale.

20 (4) If a trustee's sale has been stayed as a result of the filing  
21 of a petition in federal bankruptcy court and an order is entered in  
22 federal bankruptcy court granting relief from the stay or closing or  
23 dismissing the case, or discharging the debtor with the effect of  
24 removing the stay, the trustee may set a new sale date which shall not  
25 be less than forty-five days after the date of the bankruptcy court's  
26 order. The trustee shall:

27 (a) Comply with the requirements of RCW 61.24.040(1) (a) through  
28 (f) at least thirty days before the new sale date; and

29 (b) Cause a copy of the notice of trustee's sale as provided in RCW  
30 61.24.040(1)(f) to be published in a legal newspaper in each county in  
31 which the property or any part thereof is situated, once between the  
32 thirty-fifth and twenty-eighth day before the sale and once between the  
33 fourteenth and seventh day before the sale.

34 (5) Subsections (3) and (4) of this section are permissive only and  
35 do not prohibit the trustee from proceeding with a trustee's sale  
36 following termination of any injunction or stay on any date to which  
37 such sale has been properly continued in accordance with RCW  
38 61.24.040(6).



1       (6) The issuance of a restraining order or injunction shall not  
2 prohibit the trustee from continuing the sale as provided in RCW  
3 61.24.040(6).

4       **Sec. 6.** RCW 61.24.135 and 1998 c 295 s 15 are each amended to read  
5 as follows:

6       It is an unfair or deceptive act or practice under the consumer  
7 protection act, chapter 19.86 RCW, for any person, acting alone or in  
8 concert with others, to offer, or offer to accept or accept from  
9 another, any consideration of any type not to bid, or to reduce a bid,  
10 at a sale of property conducted pursuant to a power of sale in a deed  
11 of trust. The trustee may decline to complete a sale or deliver the  
12 trustee's deed and refund the purchase price, if it appears that the  
13 bidding has been collusive or defective, or that the sale might have  
14 been void. However, it is not an unfair or deceptive act or practice  
15 for any person, including a trustee, to state that a property subject  
16 to a recorded notice of trustee's sale or subject to a sale conducted  
17 pursuant to this chapter is being sold in an "as-is" condition, or for  
18 the beneficiary to arrange to provide financing for a particular bidder  
19 or to reach any good faith agreement with the borrower, grantor, any  
20 guarantor, or any junior lienholder."

21       Correct the title.

--- END ---