
HOUSE BILL 1644

State of Washington

61st Legislature

2009 Regular Session

By Representatives Maxwell, Miloscia, Clibborn, Ormsby, Hurst, Green,
and Orwall

1 AN ACT Relating to reconveyances of deeds of trust; and amending
2 RCW 61.24.005 and 61.24.110.

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

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

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

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

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

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

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

18 (5) "Borrower" means a person or a general partner in a
19 partnership, including a joint venture, that is liable for all or part

1 of the obligations secured by the deed of trust under the instrument or
2 other document that is the principal evidence of such obligations, or
3 the person's successors if they are liable for those obligations under
4 a written agreement with the beneficiary.

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

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

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

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

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

25 (11) "Person" means any natural person, or legal or governmental
26 entity.

27 (12) "Insurance producer" means an authorized issuer of title
28 insurance policies of a title insurance company who is licensed as an
29 insurance producer for that purpose under chapter 48.17 RCW.

30 **Sec. 2.** RCW 61.24.110 and 1998 c 295 s 13 are each amended to read
31 as follows:

32 ~~((The trustee shall reconvey all or any part of the property~~
33 ~~encumbered by the deed of trust to the person entitled thereto on~~
34 ~~written request of the beneficiary, or upon satisfaction of the~~
35 ~~obligation secured and written request for reconveyance made by the~~
36 ~~beneficiary or the person entitled thereto.))~~

1 (1)(a) Within thirty days after satisfaction of the obligation
2 secured by the deed of trust, the beneficiary shall deliver a written
3 request to the trustee to reconvey the property encumbered by the deed
4 of trust to the grantor.

5 (b) Within thirty days after the beneficiary delivers the written
6 request to reconvey to the trustee, the trustee shall reconvey all or
7 any part of the property encumbered by the deed of trust to the
8 grantor.

9 (c) If the obligation is satisfied and after receiving the written
10 request and payment of reasonable charges, the beneficiary refuses to
11 request reconveyance or the trustee refuses to reconvey the property
12 under this section, the beneficiary or trustee refusing is liable to
13 the grantor for the sum of five hundred dollars and for all actual
14 damages incurred by the refusal.

15 (2) Upon the satisfaction of the obligation by the title insurance
16 company or insurance producer, the title insurance company or insurance
17 producer may prepare, execute, and record a release of the deed of
18 trust upon written request of the grantor, payment of reasonable
19 charges, and compliance with the notice requirements of subsection (3)
20 of this section if a reconveyance of the deed of trust has not been
21 executed and recorded under this section within seventy-five days of
22 the date the obligation secured by the deed of trust was satisfied.
23 This subsection (2) does not excuse the beneficiary or trustee from
24 compliance with subsection (1) of this section.

25 (3) Prior to the issuance and recording of a release under this
26 section, the title insurance company or insurance producer shall give
27 notice of the intention to record a release of the deed of trust to the
28 beneficiary of record and, if different, the party to whom the full
29 satisfaction payment was made. The notice must:

30 (a) Provide that the parties to whom the notice is sent have a
31 period of thirty days from the date of mailing to send to the title
32 insurance company or insurance producer written objections to the
33 execution and recording of the release of the deed of trust;

34 (b) Be sent by first-class mail with postage prepaid, addressed to
35 the named interested parties at their last known addresses; and

36 (c) Identify the deed of trust by the name of the original grantor
37 and any successor in interest on whose behalf payment was made and by
38 the recording reference.

1 (4) The release of the deed of trust must recite on the first page
2 that it has been executed and recorded under this section and must
3 reference this section. The release must be properly acknowledged and
4 set forth:

5 (a) The name of the original beneficiary and the name of the
6 beneficiary to whom the payment was made or on whose behalf payment was
7 made;

8 (b) The name of the original grantor of the deed of trust;

9 (c) The recording reference to the deed of trust that is to be
10 released;

11 (d) A recital that the obligation secured by the deed of trust has
12 been paid in full;

13 (e) The date and amount of payment and the party that was paid;

14 (f) The date of mailing of notice required under this section; and

15 (g) A recital that no written objections were received by the title
16 insurance company or insurance producer.

17 (5) The release of deed of trust executed under this section is
18 entitled to recordation and, when recorded, is deemed to be the
19 equivalent of a reconveyance of a deed of trust.

20 (6) The title insurance company or insurance producer shall not
21 record or cause to be recorded a release of the deed of trust when any
22 of the following circumstances exist:

23 (a) The thirty-day period following the notice given under this
24 section has not expired; or

25 (b) Written objection to recordation has been received by the title
26 insurance company or insurance producer from any of the parties to whom
27 notice was sent.

28 (7) The trustee, title insurance company, or insurance producer may
29 charge a reasonable fee for all services involved in the preparation,
30 execution, recordation, and compliance with this section, to effect the
31 release of the deed of trust.

32 (8)(a) In addition to any other remedy provided by law, a title
33 insurance company or insurance producer preparing, executing, or
34 recording a release of deed of trust is liable to any party for damages
35 that the party sustains by reason of the issuance, execution, or
36 recording of the release under this section. Except as provided in (b)
37 of this subsection, the court may award reasonable attorneys' fees to
38 the prevailing party in an action under this section.

1 (b) The court may not award attorneys' fees to a prevailing party
2 under this section if the action is maintained as a class action.

3 (9) This section applies to all deeds of trust, whether executed
4 before, on, or after the effective date of this act.

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