
SUBSTITUTE SENATE BILL 5810

State of Washington

61st Legislature

2009 Regular Session

By Senate Financial Institutions, Housing & Insurance (originally sponsored by Senators Kauffman, Berkey, Shin, Franklin, Keiser, Tom, and Kohl-Welles; by request of Governor Gregoire)

READ FIRST TIME 02/25/09.

1 AN ACT Relating to foreclosures on deeds of trust; amending RCW
2 61.24.010, 61.24.040, and 61.24.060; adding new sections to chapter
3 61.24 RCW; adding a new section to chapter 59.12 RCW; creating a new
4 section; and providing an expiration date.

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

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

8 (1)(a) A trustee, beneficiary, or authorized agent may not issue a
9 notice of default under RCW 61.24.030(7) until thirty days after
10 initial contact is made as required under (b) of this subsection or
11 thirty days after satisfying the due diligence requirements as
12 described in subsection (5) of this section.

13 (b) A beneficiary or authorized agent shall contact the borrower in
14 person or by telephone in order to assess the borrower's financial
15 ability to pay the debt secured by the deed of trust and explore
16 options for the borrower to avoid foreclosure. During the initial
17 contact, the beneficiary or authorized agent shall advise the borrower
18 that he or she has the right to request a subsequent meeting and, if
19 requested, the beneficiary or authorized agent shall schedule the

1 meeting to occur within fourteen days. The assessment of the
2 borrower's financial ability to repay the debt and a discussion of
3 options may occur during the initial contact or at the subsequent
4 meeting scheduled for that purpose. At the initial contact, the
5 borrower must be provided the toll-free telephone number made available
6 by the department to find a department-certified housing counseling
7 agency. Any meeting may occur telephonically.

8 (2) A notice of default issued under RCW 61.24.030(7) must include
9 a declaration, as provided in subsection (9) of this section, from the
10 beneficiary or authorized agent that it has contacted the borrower as
11 provided in subsection (1)(b) of this section, it has tried with due
12 diligence to contact the borrower under subsection (5) of this section,
13 or the borrower has surrendered the property to the trustee,
14 beneficiary, or authorized agent. The trustee is entitled to rely on
15 the declaration as conclusive evidence that the requirements of this
16 section have been satisfied, and the trustee is not liable for the
17 beneficiary or authorized agent failing to include the declaration.

18 (3) A beneficiary's or authorized agent's loss mitigation personnel
19 may participate by telephone during any contact required under this
20 section.

21 (4) Within fourteen days after the initial contact under subsection
22 (1) of this section, if a borrower has designated a department-
23 certified housing counseling agency, attorney, or other advisor to
24 discuss with the beneficiary or authorized agent, on the borrower's
25 behalf, options for the borrower to avoid foreclosure, the borrower
26 shall inform the beneficiary or authorized agent and provide the
27 contact information. The beneficiary or authorized agent shall contact
28 the designated representative for the borrower for the discussion
29 within fourteen days after the representative is designated by the
30 borrower. Any deed of trust modification or workout plan offered at
31 the meeting with the borrower's designated representative by the
32 beneficiary or authorized agent is subject to approval by the borrower.

33 (5) A notice of default may be issued under RCW 61.24.030(7) if a
34 beneficiary or authorized agent has not contacted a borrower as
35 required under subsection (1)(b) of this section and the failure to
36 contact the borrower occurred despite the due diligence of the
37 beneficiary or authorized agent. Due diligence requires the following:

1 (a) A beneficiary or authorized agent shall first attempt to
2 contact a borrower by sending a first-class letter to the address of
3 the property encumbered by the deed of trust that includes the toll-
4 free telephone number made available by the department to find a
5 department-certified housing counseling agency.

6 (b)(i) After the letter has been sent, the beneficiary or
7 authorized agent shall attempt to contact the borrower by telephone at
8 least three times at different hours and on different days. Telephone
9 calls must be made to the primary telephone number on file with the
10 beneficiary or authorized agent.

11 (ii) A beneficiary or authorized agent may attempt to contact a
12 borrower using an automated system to dial borrowers if the telephone
13 call, when answered, is connected to a live representative of the
14 beneficiary or authorized agent.

15 (iii) A beneficiary or authorized agent satisfies the telephone
16 contact requirements of this subsection (5)(b) if the beneficiary or
17 authorized agent determines, after attempting contact under this
18 subsection (5)(b), that the borrower's primary telephone number and
19 secondary telephone number or numbers on file, if any, have been
20 disconnected or are not good contact numbers for the borrower.

21 (c) If the borrower does not respond within fourteen days after the
22 telephone call requirements of (b) of this subsection have been
23 satisfied, the beneficiary or authorized agent shall send a certified
24 letter, with return receipt requested, to the borrower at the address
25 of the property encumbered by the deed of trust.

26 (d) The beneficiary or authorized agent shall provide a means for
27 the borrower to contact the beneficiary or authorized agent in a timely
28 manner, including a toll-free telephone number or charge-free
29 equivalent that will provide access to a live representative during
30 business hours.

31 (e) The beneficiary or authorized agent shall post a link on the
32 home page of the beneficiary's or authorized agent's internet web site,
33 if any, to the following information:

34 (i) Options that may be available to borrowers who are unable to
35 afford their mortgage payments and who wish to avoid foreclosure, and
36 instructions to borrowers advising them on steps to take to explore
37 those options;

1 (ii) A list of financial documents borrowers should collect and be
2 prepared to present to the beneficiary or authorized agent when
3 discussing options for avoiding foreclosure;

4 (iii) A toll-free telephone number or charge-free equivalent for
5 borrowers who wish to discuss options for avoiding foreclosure with
6 their beneficiary or authorized agent; and

7 (iv) The toll-free telephone number or charge-free equivalent made
8 available by the department to find a department-certified housing
9 counseling agency.

10 (6) Subsections (1) and (5) of this section do not apply if any of
11 the following occurs:

12 (a) The borrower has surrendered the property as evidenced by
13 either a letter confirming the surrender or delivery of the keys to the
14 property to the trustee, beneficiary, or authorized agent;

15 (b) The borrower has contracted with a distressed home consultant
16 as defined in RCW 61.34.020; or

17 (c) The borrower has filed for bankruptcy, and the bankruptcy stays
18 in place.

19 (7) This section applies only to deeds of trust made from January
20 1, 2003, to December 31, 2007, inclusive, that are secured by
21 residential real property and are for owner-occupied residences, and
22 not secured by a debt incurred primarily for business, investment, or
23 commercial purposes or secured by a guaranty. For purposes of this
24 subsection, "owner-occupied" means that the residence is the principal
25 residence of the borrower.

26 (8) As used in this section:

27 (a) "Borrower" includes a guarantor of a deed of trust who executed
28 a promissory note secured by the deed of trust.

29 (b) "Department" means the United States department of housing and
30 urban development.

31 (c) "Residential real property" means a one-to-four, single-family
32 residence, condominium unit, residential cooperative unit, residential
33 unit in any other type of planned unit development, or manufactured
34 home.

35 (d) "Seller-financed sales" means . . .

36 (9) The form of declaration to be provided by the beneficiary or
37 authorized agent as required under subsection (2) of this section must
38 be in substantially the following form:

1 "FORECLOSURE LOSS MITIGATION FORM

2 Please select applicable option(s) below.

3 The undersigned beneficiary or authorized agent for the beneficiary
4 hereby represents and declares that [check the applicable box and fill
5 in any blanks so that the trustee can insert, on the beneficiary's
6 behalf, the applicable declaration in the notice of default required
7 under chapter 61.24 RCW]:

8 (1) [] The beneficiary or beneficiary's authorized agent has
9 contacted the borrower under, and has complied with, section 1 of this
10 act (contact provision to "assess the borrower's financial ability to
11 pay the debt secured by the deed of trust and explore options for the
12 borrower to avoid foreclosure").

13 (2) [] The beneficiary or beneficiary's authorized agent has
14 exercised due diligence to contact the borrower as required in section
15 1(5) of this act and, after waiting fourteen days after the
16 requirements in section 1 of this act were satisfied, the beneficiary
17 or the beneficiary's authorized agent sent to the borrower(s), by
18 certified mail, return receipt requested, the letter required under
19 section 1 of this act.

20 (3) [] The borrower has surrendered the secured property as
21 evidenced by either a letter confirming the surrender or by delivery of
22 the keys to the secured property to the beneficiary, the beneficiary's
23 authorized agent or to the trustee.

24 (4) [] Under section 1 of this act, the beneficiary or
25 beneficiary's authorized agent has evidence in its file, and reasonably
26 believes, that the borrower has contracted with a distressed home
27 consultant as defined in RCW 61.34.020.

28 (5) [] Under section 1 of this act, the beneficiary or the
29 beneficiary's authorized agent has verified information that, on or
30 before the date of this declaration, the borrower(s) has filed for
31 bankruptcy, and there is no stay in place."

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

34 (1) Upon posting a notice of sale under RCW 61.24.040, a trustee or
35 authorized agent shall also post the following notice, in the manner
36 required for posting the notice of sale on the property to be sold, and

1 a trustee, beneficiary, or authorized agent shall mail at the same time
2 in an envelope addressed to the "Resident of property subject to
3 foreclosure sale" the following notice:

4 "The foreclosure process has begun on this property, which may
5 affect your right to continue to live in this property. Ninety days or
6 more after the date of this notice, this property may be sold at
7 foreclosure. If you are renting this property, the new property owner
8 may either give you a new lease or rental agreement or provide you with
9 a fifty-day eviction notice. You may wish to contact a lawyer or your
10 local legal aid or housing counseling agency to discuss any rights that
11 you may have."

12 (2) This section applies only to deeds of trust secured by
13 residential real property, as defined in section 1 of this act, and if
14 the billing address for the mortgage note is different than the
15 property address.

16 NEW SECTION. **Sec. 3.** A new section is added to chapter 61.24 RCW
17 to read as follows:

18 (1) A tenant or subtenant in possession of a rental housing unit at
19 the time the property is sold in foreclosure must be given fifty days'
20 written notice before the tenant or subtenant may be removed from the
21 property as prescribed in chapter 59.12 RCW.

22 (2) This section does not apply if a party to the note secured by
23 the deed of trust remains on the property as a tenant, subtenant, or
24 occupant.

25 (3) A tenant may be evicted for waste or nuisance . . . , subject to
26 unlawful detainer under chapter 59.12 RCW.

27 NEW SECTION. **Sec. 4.** Sections 2 and 3 of this act apply only to
28 the foreclosure of a nonowner-occupied one-to-four, single-family
29 residence, condominium unit, residential cooperative unit, residential
30 unit in any other type of planned unit development, or manufactured
31 home in which title has been eliminated under RCW 65.20.040.

32 NEW SECTION. **Sec. 5.** A new section is added to chapter 61.24 RCW
33 to read as follows:

34 (1) The failure of the grantor to bring a civil action to enjoin a

1 foreclosure sale under this chapter may not be deemed a waiver of a
2 claim for damages asserting:

- 3 (a) Common law fraud and misrepresentation;
- 4 (b) A violation of RCW 19.144.080; or
- 5 (c) Failure of the trustee to materially comply with the provisions
6 of this chapter.

7 (2) The nonwaived claims listed under subsection (1) of this
8 section may be (a) asserted in an unlawful detainer action brought by
9 the lender against the grantor as a holdover tenant or (b)
10 independently brought against a lender or trustee if a third party is
11 the successful bidder at the foreclosure sale.

12 (3) The nonwaived claims listed under subsection (1) of this
13 section are subject to the following limitations:

14 (a) The claim must be asserted or brought within two years from the
15 date of the foreclosure sale;

16 (b) The claim may not seek any remedy at law or in equity other
17 than direct monetary damages, unless the property is owned by the
18 beneficiary at the time the action is filed;

19 (c) The claim may not affect the validity or finality of the
20 foreclosure sale;

21 (d) A grantor who files such a claim is prohibited from filing for
22 record a lis pendens without prior permission of a court, as provided
23 for in RCW 4.28.320, or any other document purporting to create a
24 similar effect, related to the real property foreclosed upon;

25 (e) The claim may not otherwise operate to encumber or cloud the
26 title to the property that was subject to the foreclosure sale, except
27 to the extent that a judgment on the claim in favor of the grantor may,
28 consistent with RCW 4.56.190, become a judgment lien on real property
29 then owned by the lender; and

30 (f) The relief that may be granted for judgment upon the claim is
31 limited to actual damages. However, if the grantor brings in the same
32 civil action a claim for violation of chapter 19.86 RCW, arising out of
33 the same alleged facts, relief under chapter 19.86 RCW is limited to
34 actual damages, treble damages as provided for in RCW 19.86.090, and
35 the costs of suit, including a reasonable attorney's fee.

36 (4) This section applies only to foreclosures of an owner-occupied
37 one-to-four, single-family residence, condominium unit, residential
38 cooperative unit, residential unit in any other type of planned unit

1 development, or manufactured home in which title has been eliminated
2 under RCW 65.20.040, which is the grantor's principal place of
3 residence.

4 (5) This section does not apply to the foreclosure of a deed of
5 trust used to secure a debt incurred for business, investment, or
6 commercial purposes or to secure a guaranty.

7 **Sec. 6.** RCW 61.24.010 and 2008 c 153 s 1 are each amended to read
8 as follows:

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

10 (a) Any domestic corporation incorporated under Title 23B, 30, 31,
11 32, or 33 RCW of which at least one officer is a Washington resident;
12 or

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

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

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

25 (e) Any agency or instrumentality of the United States government;
26 or

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

29 (2) The trustee may resign at its own election or be replaced by
30 the beneficiary. The trustee shall give prompt written notice of its
31 resignation to the beneficiary. The resignation of the trustee shall
32 become effective upon the recording of the notice of resignation in
33 each county in which the deed of trust is recorded. If a trustee is
34 not appointed in the deed of trust, or upon the resignation,
35 incapacity, disability, absence, or death of the trustee, or the
36 election of the beneficiary to replace the trustee, the beneficiary
37 shall appoint a trustee or a successor trustee. Upon recording the

1 appointment of a successor trustee in each county in which the deed of
2 trust is recorded, the successor trustee shall be vested with all
3 powers of an original trustee.

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

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

9 (5) The trustee or successor trustee has a duty of good faith to
10 the beneficiary, grantor, or other persons having an interest in the
11 property subject to the deed of trust.

12 **Sec. 7.** RCW 61.24.040 and 2008 c 153 s 3 are each amended to read
13 as follows:

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

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

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

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

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

36 (iii) The vendee in any real estate contract, the lessee in any
37 lease, or the holder of any conveyances of any interest or estate in

1 any portion or all of the property described in such notice, if that
2 contract, lease, or conveyance of such interest or estate, or a
3 memorandum or other notice thereof, was recorded after the recordation
4 of the deed of trust being foreclosed and before the recordation of the
5 notice of sale;

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

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

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

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

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

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

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

38 NOTICE OF TRUSTEE'S SALE

I.

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

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

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

II.

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

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

III.

The default(s) for which this foreclosure is made is/are as follows:

[If default is for other than payment of money, set forth the particulars]

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

IV.

1 The sum owing on the obligation secured by the Deed of Trust is:
2 Principal \$, together with interest as provided in the note
3 or other instrument secured from the day of,,
4 and such other costs and fees as are due under the note or other
5 instrument secured, and as are provided by statute.

6 V.

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

24 VI.

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

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~~)) subsection (1)(f) of this section,
28 the trustee shall include with the copy of the notice which is mailed
29 to the grantor, a statement to the grantor in substantially the
30 following form:

31 NOTICE OF FORECLOSURE

32 Pursuant to the Revised Code of Washington,

Chapter 61.24 RCW

The attached Notice of Trustee's Sale is a consequence of default(s) in the obligation to, the Beneficiary of your Deed of Trust and owner of the obligation secured thereby. Unless the default(s) is/are cured, your property will be sold at auction on the day of,

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

	Currently due to reinstate on.....	Estimated amount that will be due to reinstate on..... (11 days before the date set for sale)
Delinquent payments from....., ..., in the amount of \$.../mo.:	\$....	\$....
Late charges in the total amount of:	\$....	\$....
		Estimated Amounts
Attorneys' fees:	\$....	\$....
Trustee's fee:	\$....	\$....

1	Trustee's expenses:		
2	(Itemization)		
3	Title report	\$....	\$....
4	Recording fees	\$....	\$....
5	Service/Posting		
6	of Notices	\$....	\$....
7	Postage/Copying		
8	expense	\$....	\$....
9	Publication	\$....	\$....
10	Telephone		\$....
11	charges	\$....	
12	Inspection fees	\$....	\$....
13	\$....	\$....
14	\$....	\$....
15	TOTALS	\$....	\$....

16 To pay off the entire obligation secured by your Deed of Trust as
17 of the day of you must pay a total of \$.
18 in principal, \$. in interest, plus other costs and advances
19 estimated to date in the amount of \$. From and after the
20 date of this notice you must submit a written request to the Trustee to
21 obtain the total amount to pay off the entire obligation secured by
22 your Deed of Trust as of the payoff date.

23 As to the defaults which do not involve payment of money to the
24 Beneficiary of your Deed of Trust, you must cure each such default.
25 Listed below are the defaults which do not involve payment of money to
26 the Beneficiary of your Deed of Trust. Opposite each such listed
27 default is a brief description of the action necessary to cure the
28 default and a description of the documentation necessary to show that
29 the default has been cured.

30	Default	Description of Action Required to Cure and
31		Documentation Necessary to Show Cure
32
33	
34	
35

1
2

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

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

36 The court may grant a restraining order or injunction to restrain
37 a trustee's sale pursuant to RCW 61.24.130 upon five days notice to the

1 trustee of the time when, place where, and the judge before whom the
2 application for the restraining order or injunction is to be made.
3 This notice shall include copies of all pleadings and related documents
4 to be given to the judge. Notice and other process may be served on
5 the trustee at:

6 NAME:
7 ADDRESS:
8
9 TELEPHONE NUMBER:

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

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

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

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

32 (6) The trustee has no obligation to, but may, for any cause the
33 trustee deems advantageous, continue the sale for a period or periods
34 not exceeding a total of one hundred twenty days by (a) a public
35 proclamation at the time and place fixed for sale in the notice of sale
36 and if the continuance is beyond the date of sale, by giving notice of

1 the new time and place of the sale by both first class and either
2 certified or registered mail, return receipt requested, to the persons
3 specified in ((RCW 61.24.040)) subsection (1)(b)(i) and (ii) of this
4 section to be deposited in the mail (i) not less than four days before
5 the new date fixed for the sale if the sale is continued for up to
6 seven days; or (ii) not more than three days after the date of the
7 continuance by oral proclamation if the sale is continued for more than
8 seven days, or, alternatively, (b) by giving notice of the time and
9 place of the postponed sale in the manner and to the persons specified
10 in ((RCW 61.24.040)) subsection (1)(b), (c), (d), and (e) of this
11 section and publishing a copy of such notice once in the newspaper(s)
12 described in ((RCW 61.24.040)) subsection (3) of this section, more
13 than seven days before the date fixed for sale in the notice of sale.
14 No other notice of the postponed sale need be given;

15 (7) The purchaser shall forthwith pay the price bid and on payment
16 the trustee shall execute to the purchaser its deed; the deed shall
17 recite the facts showing that the sale was conducted in compliance with
18 all of the requirements of this chapter and of the deed of trust, which
19 recital shall be prima facie evidence of such compliance and conclusive
20 evidence thereof in favor of bona fide purchasers and encumbrancers for
21 value, except that these recitals shall not affect the lien or interest
22 of any person entitled to notice under ((RCW 61.24.040)) subsection (1)
23 of this section, if the trustee fails to give the required notice to
24 such person. In such case, the lien or interest of such omitted person
25 shall not be affected by the sale and such omitted person shall be
26 treated as if such person was the holder of the same lien or interest
27 and was omitted as a party defendant in a judicial foreclosure
28 proceeding;

29 (8) The sale as authorized under this chapter shall not take place
30 less than one hundred ninety days from the date of default in any of
31 the obligations secured;

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

NOTICE TO OCCUPANTS OR TENANTS

The purchaser at the trustee's sale is entitled to possession of the property on the 20th day following the sale, as against the grantor under the deed of trust (the owner) and anyone having an interest junior to the deed of trust, including occupants (~~and~~) who are not tenants. After the 20th day following the sale the purchaser has the right to evict occupants (~~and~~) who are not tenants by summary proceedings under (~~the unlawful detainer act,~~) chapter 59.12 RCW. For tenant-occupied property, the purchaser shall provide a tenant with written notice in accordance with section 2 of this act;

(10) Only one copy of all notices required by this chapter need be given to a person who is both the borrower and the grantor. All notices required by this chapter that are given to a general partnership are deemed given to each of its general partners, unless otherwise agreed by the parties.

Sec. 8. RCW 61.24.060 and 1998 c 295 s 8 are each amended to read as follows:

The purchaser at the trustee's sale shall be entitled to possession of the property on the twentieth day following the sale, as against the grantor under the deed of trust and anyone having an interest junior to the deed of trust, including occupants (~~and~~) who are not tenants, who were given all of the notices to which they were entitled under this chapter. For tenant-occupied property, the purchaser shall provide a tenant with written notice in accordance with section 2 of this act. The purchaser shall also have a right to the summary proceedings to obtain possession of real property provided in chapter 59.12 RCW.

NEW SECTION. **Sec. 9.** A new section is added to chapter 59.12 RCW to read as follows:

An unlawful detainer action, commenced as a result of a trustee's sale under chapter 61.24 RCW, must comply with the requirements of RCW 61.24.040 and 61.24.060.

NEW SECTION. **Sec. 10.** If any provision of this act or its

1 application to any person or circumstance is held invalid, the
2 remainder of the act or the application of the provision to other
3 persons or circumstances is not affected.

4 NEW SECTION. **Sec. 11.** Sections 1 through 4, 7, and 8 of this act
5 expire December 31, 2012.

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