
ENGROSSED SUBSTITUTE HOUSE BILL 2057

State of Washington 65th Legislature 2017 Regular Session

By House Judiciary (originally sponsored by Representative Orwall)

READ FIRST TIME 02/17/17.

1 AN ACT Relating to the services and processes available when
2 residential real property is abandoned or in foreclosure; amending
3 RCW 61.24.173, 61.24.040, and 61.24.030; and adding new sections to
4 chapter 61.24 RCW.

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
7 RCW to read as follows:

8 (1) A certificate of abandonment may be obtained for a fee
9 through the housing finance commission by using a form and subject to
10 the terms and conditions developed by the housing finance commission
11 in conjunction with the servicing industry, trustees, and civil legal
12 aid. The housing finance commission must determine the costs
13 associated with the application process and set a reasonable
14 application fee based upon these costs. The fee must not exceed one
15 hundred dollars.

16 (2) Upon issuance of a certificate of abandonment, or upon
17 receipt of notification from a servicer pursuant to section 2 or 3 of
18 this act, the housing finance commission must notify the appropriate
19 city, town, or county.

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

3 (1) A servicer to whom a borrower, after default, has granted
4 written permission to enter the premises to inspect, secure, repair,
5 or maintain the premises may enter the premises and act in accordance
6 with the scope of the permission granted by the borrower.

7 (2) A servicer in possession of a court order allowing entry onto
8 the premises to access, secure, maintain, and preserve the premises
9 may enter the premises and act in accordance with the scope of the
10 court order.

11 (3) A certificate of abandonment is not necessary under this
12 section, but the servicer must notify the housing finance commission
13 that it has obtained a court order or been granted written permission
14 from the borrower in order that the commission may notify the
15 appropriate city, town, or county.

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

18 (1) A servicer may perform reasonable external maintenance
19 without the borrower's permission if, after default and after
20 reasonable inspection and notice in accordance with this section,
21 there is reasonable cause to believe that the property is abandoned.

22 (2) A certificate of abandonment is not necessary under this
23 section, but the servicer must notify the housing finance commission
24 that it intends to perform reasonable external maintenance in order
25 that the commission may notify the appropriate city, town, or county.

26 (3) For purposes of this section:

27 (a) "Notice" means a written notice posted on the door, informing
28 the occupants that in three days the servicer or its agent intends to
29 perform external maintenance of the property. The notice must remain
30 on the door until the servicer is contacted by the borrower or lawful
31 occupant or until foreclosure is complete. The notice must include
32 all of the following:

33 (i) Information about the borrower's or lawful occupant's right
34 to possession;

35 (ii) A twenty-four hour phone number that the borrower or lawful
36 occupant may call with questions or concerns or to obtain
37 information; and

1 (iii) The toll-free telephone number or charge-free equivalent
2 made available by the department to find a department-approved
3 housing counseling agency.

4 (b) "Reasonable cause to believe that the property is abandoned"
5 means that the property exhibits a lack of evidence of occupancy and
6 at least one of the following indicia of abandonment:

7 (i) Overgrown or dead vegetation;

8 (ii) An accumulation of newspapers, circulars, fliers, or mail;

9 (iii) Past due utility notices, or some or all of the utilities
10 have been disconnected;

11 (iv) An accumulation of trash, junk, or debris;

12 (v) Broken windows.

13 (c) "Reasonable external maintenance" includes:

14 (i) Maintaining landscaping;

15 (ii) Collecting and disposing of newspapers, circulars, trash,
16 and debris;

17 (iii) Painting over graffiti or tagging; and

18 (iv) The removal of hazardous property. If property is removed,
19 the servicer must inventory and document the removal.

20 (d) "Reasonable inspection" means inspection from the street
21 without entering the property.

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

24 (1) A certificate of abandonment for entry into a dwelling
25 without the borrower's permission permits a servicer or its agent to
26 enter the property to take reasonable steps to secure the property.
27 Upon issuance of a certificate of abandonment, the housing finance
28 commission must notify the appropriate city, town, or county.

29 (2) The following conditions must be met before issuance of a
30 certificate of abandonment:

31 (a) The borrower is in default and the property is abandoned, as
32 indicated by the presence of at least three of the following indicia
33 of abandonment visible from the exterior: (i) The absence of
34 furnishings and personal items consistent with residential
35 habitation; (ii) the gas, electric, and water utility services have
36 been disconnected; (iii) statements by neighbors, passersby, delivery
37 agents, or government employees that the property is vacant; (iv)
38 multiple windows on the property are boarded up or closed off or are
39 smashed through, broken, or unhinged, or multiple window panes are

1 broken and unrepaired; (v) doors on the residence are smashed
2 through, broken off, unhinged, or continuously unlocked; (vi) the
3 property has been stripped of copper or other materials, or interior
4 fixtures have been removed; (vii) law enforcement officials have
5 received at least one report of trespassing or vandalism or other
6 illegal activities occurring on the property within the immediately
7 preceding six months; (viii) the property has been declared unfit for
8 occupancy and ordered to remain vacant and unoccupied pursuant to an
9 order issued by a municipal or county authority or a court of
10 competent jurisdiction; (ix) construction was initiated on the
11 property and was discontinued before completion, leaving a building
12 unsuitable for occupancy, and construction has not taken place for at
13 least six months; (x) newspapers, circulars, flyers, or mail has
14 accumulated on the property or the United States postal service has
15 discontinued delivery to the property; (xi) rubbish, trash, debris,
16 neglected vegetation, or natural overgrowth has accumulated on the
17 property; (xii) hazardous, noxious, or unhealthy substances or
18 materials have accumulated on the property; (xiii) other credible
19 evidence exists indicating the intent to vacate and abandon the
20 property; and either

21 (b) The property is open and unprotected or in reasonable danger
22 of significant damage resulting from exposure to the elements or
23 vandalism; or

24 (c) The local police, fire department, or code enforcement
25 authority has requested that the borrower, owner, or any other
26 interested or authorized party secure the residential real property
27 because the local authority has declared the property to be an
28 imminent danger to the health, safety, and welfare of the public.

29 (3) Within seven days of issuance of the certificate of
30 abandonment, the servicer or its agent must post a written notice on
31 the door informing the occupants that after thirty days the servicer
32 or its agent intends to enter the dwelling to take reasonable steps
33 to secure the property. The notice must remain on the door until the
34 servicer is contacted by the borrower or lawful occupant or until
35 foreclosure is complete. The notice must include all of the
36 following:

37 (a) Information about the borrower's or lawful occupant's right
38 to possession;

1 (b) A twenty-four hour phone number that the borrower or lawful
2 occupant may call with questions or concerns or to obtain
3 information; and

4 (c) The phone number of a housing counseling agency and
5 information regarding the foreclosure fairness act.

6 (4) Absent the threat of imminent danger of harm, the servicer or
7 its agent must wait thirty days after posting the notice before
8 entering to take reasonable steps to secure the property. If there is
9 imminent danger of harm, the servicer or its agent need not wait
10 thirty days but may enter immediately and, simultaneous with entry,
11 post the notice required under subsection (3) of this section.

12 (5) Reasonable steps to secure the property include:

13 (a) Installing missing locks on exterior doors. Working locks may
14 not be removed or replaced, unless all doors are secured and there is
15 no other means of entry, and in such cases only one working lock may
16 be removed and replaced;

17 (b) Replacing or boarding broken or missing windows;

18 (c) Winterizing, including draining pipes and disconnecting or
19 turning on utilities;

20 (d) Eliminating building code or other code violations; or

21 (e) Securing exterior pools and spas.

22 (6) The servicer must document all steps to enter and secure the
23 property, including taking date and time-stamped photographs of
24 entry, and the manner of entry.

25 (7) Personal property may not be removed unless it is hazardous
26 or perishable, and in such case an inventory and photographs of the
27 property removed must be made.

28 (8) The servicer or agent must retain all documentation and
29 photographs for a period of four years.

30 (9) The servicer and its agents must promptly exit the property
31 if, upon entry, there are signs of occupancy.

32 (10) For purposes of this section, "imminent danger of harm"
33 means:

34 (a) Active flooding, including damage to the roof such that water
35 is entering the structure;

36 (b) Extreme weather conditions exist and immediate and extensive
37 property damage is likely;

38 (c) Notification by the police, fire department, or code
39 enforcement that there is immediate danger to health, safety, and
40 welfare of the public; or

1 (d) Broken windows or damaged doors that could allow unlawful
2 access to the property.

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

5 The authority of an agent, such as a property preservation
6 entity, to enter abandoned property and to perform any sort of work
7 derives solely from the servicer's authority. A servicer has a duty
8 to monitor its agents and to make sure that its agents possess the
9 required permit, license, certificate, or registration, and are
10 properly bonded and insured if so required. The servicer must require
11 that the agent implement stringent background check requirements for
12 all of its employees engaged in on-site property preservation.

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

15 (1) As used in this section:

16 (a) "Maintain" means:

17 (i) Securing doors and windows;

18 (ii) Landscaping;

19 (iii) Collecting and disposing of newspapers, circulars, trash,
20 and debris;

21 (iv) Removing hazardous property;

22 (v) Securing exterior pools and hot tubs; and

23 (vi) Eliminating other threats to public health and safety.

24 (b) "Reasonable costs" means actual and demonstrable costs that
25 are commensurate with and do not exceed the market rate for services
26 necessary to remedy a condition resulting from a failure to maintain,
27 plus the actual and demonstrable costs of administering a contract
28 for services to remedy the condition or the portion of the costs of a
29 program to remedy the condition that is attributable to remedying a
30 condition for specific property.

31 (2)(a) Beginning thirty days after obtaining written permission
32 or a court order as described under section 2 of this act or the
33 issuance of a certificate of abandonment under section 4 of this act,
34 and until the later of the recording of the trustee's deed by the
35 purchaser or fifteen days after physical delivery of the trustee's
36 deed to the purchaser, a beneficiary or its agent or servicer is
37 under a duty to maintain the property during any period in which the
38 property is vacant.

1 (b) A servicer must provide the servicer's name or the name of
2 the servicer's agent and a telephone number or other means for
3 contacting the servicer or agent to an official that the local
4 government designates to receive the information described in this
5 subsection.

6 (c) The servicer must post a durable notice in a conspicuous
7 location on the property that lists a telephone number for the
8 servicer or for the local government that a person may call to report
9 a condition of neglect. The servicer must replace the notice if the
10 notice is removed from the property during a period when the property
11 is vacant.

12 (d) A servicer or the agent of a servicer must identify the
13 borrower to the local government and provide to, and maintain with,
14 the local government current contact information during a period when
15 the property is vacant.

16 (3)(a) If a local government finds a violation of subsection
17 (2)(a) of this section, the local government must notify the
18 servicer, in writing, that the property is the subject of the
19 violation and in accordance with (b) or (c) of this subsection, as
20 appropriate, must specify a time within which the servicer must
21 remedy the condition that is the basis for the local government's
22 finding.

23 (b) The local government must allow the servicer not fewer than
24 thirty days to remedy the violation, unless the local government
25 makes a determination under (c) of this subsection, and must provide
26 the servicer with an opportunity to contest the local government's
27 finding at a hearing. The servicer must contest the local
28 government's finding within ten days after the local government
29 notifies the servicer of the violation.

30 (c) If the local government determines that a specific condition
31 of the property constitutes a threat to public health or safety, the
32 local government may require the servicer to remedy the specific
33 condition in fewer than thirty days, provided that the local
34 government specifies in the written notice the date by which the
35 servicer must remedy the specific condition. A local government may
36 specify in the written notice different dates by which the servicer
37 must remedy separate conditions of neglect on the foreclosed
38 residential real property.

39 (4)(a) After a local government allows a servicer the time
40 specified in subsection (3)(b) of this section or makes a

1 determination under subsection (3)(c) of this section, the local
2 government may remedy or contract with another person to remedy and
3 require the servicer to reimburse the local government for reasonable
4 costs the local government incurs under this subsection.

5 (b) A local government that has incurred costs with respect to
6 property under (a) of this subsection has a lien on the property for
7 the sum of the local government's unreimbursed costs. A lien created
8 under this subsection is prior to all other liens and encumbrances,
9 except that the lien has equal priority with a tax lien. The lien
10 attaches at the time the local government files a claim of lien with
11 the county clerk of the county in which the property is located. A
12 local government may bring an action in the superior court to
13 foreclose the lien in the manner provided for foreclosing other liens
14 on real or personal property.

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

17 (1) As used in this section:

18 (a) "Neglect" means:

19 (i) To fail or a failure to maintain the buildings, grounds, or
20 appurtenances of property in such a way as to allow:

21 (A) Excessive growth of foliage that diminishes the value of
22 adjacent property;

23 (B) Trespassers to remain on the foreclosed residential real
24 property or in a structure located on the foreclosed residential real
25 property;

26 (C) Mosquito larvae or pupae to grow in standing water on the
27 property; or

28 (D) Other conditions on the property that cause or contribute to
29 causing a public nuisance;

30 (ii) To fail or a failure to monitor the condition of property by
31 inspecting the property at least once every thirty days with
32 sufficient attention so as to prevent, or to identify and remedy, a
33 condition described in (a)(i) of this subsection.

34 (b) "Reasonable costs" means actual and demonstrable costs that
35 are commensurate with and do not exceed the market rate for services
36 necessary to remedy a condition of neglect, plus the actual and
37 demonstrable costs of administering a contract for services to remedy
38 a condition of neglect or the portion of the costs of a program to

1 remedy conditions of neglect that are attributable to remedying a
2 condition of neglect for specific property.

3 (2)(a) A servicer is under an obligation to maintain and may not
4 neglect the property during any period in which the property is
5 vacant.

6 (b) A servicer must provide the servicer's name or the name of
7 the servicer's agent and a telephone number or other means for
8 contacting the servicer or agent to an official that the local
9 government designates to receive the information described in this
10 subsection.

11 (c) The servicer must post a durable notice in a conspicuous
12 location on the property that lists a telephone number for the
13 servicer or for the local government that a person may call to report
14 a condition of neglect. The servicer must replace the notice if the
15 notice is removed from the property during a period when the property
16 is vacant.

17 (d) A servicer or the agent of a servicer must identify the
18 borrower to the local government and provide to, and maintain with,
19 the local government current contact information during a period when
20 the property is vacant.

21 (3)(a) If a local government finds a violation of subsection
22 (2)(a) of this section, the local government must notify the
23 servicer, in writing, that the property is the subject of the
24 violation and in accordance with (b) or (c) of this subsection, as
25 appropriate, must specify a time within which the servicer must
26 remedy the condition of neglect that is the basis for the local
27 government's finding.

28 (b) The local government must allow the servicer not fewer than
29 thirty days to remedy the violation, unless the local government
30 makes a determination under (c) of this subsection, and must provide
31 the servicer with an opportunity to contest the local government's
32 finding at a hearing. The servicer must contest the local
33 government's finding within ten days after the local government
34 notifies the servicer of the violation.

35 (c) If the local government determines that a specific condition
36 of the property constitutes a threat to public health or safety, the
37 local government may require the servicer to remedy the specific
38 condition in fewer than thirty days, provided that the local
39 government specifies in the written notice the date by which the
40 servicer must remedy the specific condition. A local government may

1 specify in the written notice different dates by which the servicer
2 must remedy separate conditions of neglect on the foreclosed
3 residential real property.

4 (4)(a) After a local government allows a servicer the time
5 specified in subsection (3)(b) of this section or makes a
6 determination under subsection (3)(c) of this section, the local
7 government may remedy or contract with another person to remedy
8 neglect or a specific condition of neglect on property and require
9 the servicer to reimburse the local government for reasonable costs
10 the local government incurs under this subsection.

11 (b) A local government that has incurred costs with respect to
12 property under (a) of this subsection has a lien on the property for
13 the sum of the local government's unreimbursed costs. A lien created
14 under this subsection is prior to all other liens and encumbrances,
15 except that the lien has equal priority with a tax lien. The lien
16 attaches at the time the local government files a claim of lien with
17 the county clerk of the county in which the property is located. A
18 local government may bring an action in the superior court to
19 foreclose the lien in the manner provided for foreclosing other liens
20 on real or personal property.

21 **Sec. 8.** RCW 61.24.173 and 2016 c 196 s 2 are each amended to
22 read as follows:

23 ~~(1) ((Except as provided in subsections (4) and (5) of this~~
24 ~~section, beginning July 1, 2016, and every quarter thereafter, every~~
25 ~~beneficiary on whose behalf a notice of trustee's sale has been~~
26 ~~recorded pursuant to RCW 61.24.040 on residential real property under~~
27 ~~this chapter must:~~

28 ~~(a) Report to the department the number of notices of trustee's~~
29 ~~sale recorded for each residential property during the previous~~
30 ~~quarter;~~

31 ~~(b) Remit the amount required under subsection (2) of this~~
32 ~~section; and~~

33 ~~(c) Report and update beneficiary contact information for the~~
34 ~~person and work group responsible for the beneficiary's compliance~~
35 ~~with the requirements of the foreclosure fairness act created in this~~
36 ~~chapter.~~

37 ~~(2))~~ For each notice of trustee's sale recorded on residential
38 real property, the beneficiary on whose behalf the notice of
39 trustee's sale has been recorded shall remit ~~((two hundred fifty~~

1 dollars to the department to be deposited, as provided under RCW
2 61.24.172, into the foreclosure fairness account)) three hundred
3 dollars to the county auditor or recording officer at the time of
4 recording the notice of trustee's sale. The ((two)) three hundred
5 ((fifty)) dollar payment is required for every recorded notice of
6 trustee's sale for noncommercial loans on residential real property,
7 but does not apply to the recording of an amended notice of trustee's
8 sale. ((If the beneficiary previously made a payment under RCW
9 61.24.174, as it existed prior to July 1, 2016, for a notice of
10 default supporting the recorded notice of trustee's sale, no payment
11 is required under this section. The beneficiary shall remit the total
12 amount required in a lump sum each quarter.

13 ~~(3) Reporting and payments under subsections (1) and (2) of this~~
14 ~~section are due within forty five days of the end of each quarter.~~

15 ~~(4) This section does not apply to any beneficiary or loan~~
16 ~~servicer that is a federally insured depository institution, as~~
17 ~~defined in 12 U.S.C. Sec. 461(b)(1)(A), and that certifies under~~
18 ~~penalty of perjury that fewer than fifty notices of trustee's sale~~
19 ~~were recorded on its behalf in the preceding year.~~

20 ~~(5)) (a) The county auditor or recording officer shall retain~~
21 ~~three percent for collection of the fee and the amount retained must~~
22 ~~be used for purposes of operations and maintenance consistent with~~
23 ~~RCW 36.22.170(2)(b).~~

24 ~~(b) The county treasurer or recording officer shall remit the~~
25 ~~remaining funds to the state treasurer on a monthly basis for deposit~~
26 ~~into the foreclosure fairness account.~~

27 ~~(2) Any beneficiary or loan servicer that is a federally insured~~
28 ~~depository institution, as defined in 12 U.S.C. Sec. 461(b)(1)(A),~~
29 ~~that records fewer than fifty notices of trustee's sale for~~
30 ~~residential real property during a calendar year may apply to the~~
31 ~~department for a refund of the recording fee established under this~~
32 ~~section. At the option of the beneficiary or loan servicer, a refund~~
33 ~~application may be submitted on a quarterly or an annual basis~~
34 ~~according to rules adopted by the department.~~

35 ~~(3) This section does not apply to association beneficiaries~~
36 ~~subject to chapter 64.32, 64.34, or 64.38 RCW.~~

37 ~~((6)) (4) For purposes of this section, "residential real~~
38 ~~property" includes residential real property with up to four dwelling~~
39 ~~units, whether or not the property or any part thereof is owner-~~
40 ~~occupied.~~

1 **Sec. 9.** RCW 61.24.040 and 2012 c 185 s 10 are each amended to
2 read as follows:

3 A deed of trust foreclosed under this chapter shall be foreclosed
4 as follows:

5 (1) At least ninety days before the sale, or if a letter under
6 RCW 61.24.031 is required, at least one hundred twenty days before
7 the sale, the trustee shall:

8 (a) Record a notice in the form described in (~~((f) of this~~)
9 subsection (2) of this section in the office of the auditor in each
10 county in which the deed of trust is recorded;

11 (b) To the extent the trustee elects to foreclose its lien or
12 interest, or the beneficiary elects to preserve its right to seek a
13 deficiency judgment against a borrower or grantor under RCW
14 61.24.100(3)(a), and if their addresses are stated in a recorded
15 instrument evidencing their interest, lien, or claim of lien, or an
16 amendment thereto, or are otherwise known to the trustee, cause a
17 copy of the notice of sale described in (~~((f) of this~~) subsection
18 (2) of this section to be transmitted by both first-class and either
19 certified or registered mail, return receipt requested, to the
20 following persons or their legal representatives, if any, at such
21 address:

22 (i) The borrower and grantor;

23 (ii) The beneficiary of any deed of trust or mortgagee of any
24 mortgage, or any person who has a lien or claim of lien against the
25 property, that was recorded subsequent to the recordation of the deed
26 of trust being foreclosed and before the recordation of the notice of
27 sale;

28 (iii) The vendee in any real estate contract, the lessee in any
29 lease, or the holder of any conveyances of any interest or estate in
30 any portion or all of the property described in such notice, if that
31 contract, lease, or conveyance of such interest or estate, or a
32 memorandum or other notice thereof, was recorded after the
33 recordation of the deed of trust being foreclosed and before the
34 recordation of the notice of sale;

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

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

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

7 (c) Cause a copy of the notice of sale described in (~~((f))~~
8 ~~this~~) subsection (2) of this section to be transmitted by both
9 first-class and either certified or registered mail, return receipt
10 requested, to the plaintiff or the plaintiff's attorney of record, in
11 any court action to foreclose a lien or other encumbrance on all or
12 any part of the property, provided a court action is pending and a
13 lis pendens in connection therewith is recorded in the office of the
14 auditor of any county in which all or part of the property is located
15 on the date the notice is recorded;

16 (d) Cause a copy of the notice of sale described in (~~((f))~~
17 ~~this~~) subsection (2) of this section to be transmitted by both
18 first-class and either certified or registered mail, return receipt
19 requested, to any person who has recorded a request for notice in
20 accordance with RCW 61.24.045, at the address specified in such
21 person's most recently recorded request for notice;

22 (e) Cause a copy of the notice of sale described in (~~((f))~~
23 ~~this~~) subsection (2) of this section to be posted in a conspicuous
24 place on the property, or in lieu of posting, cause a copy of said
25 notice to be served upon any occupant of the property;

26 (~~((f))~~) (2)(a) The notice required in subsection (1) of this
27 section must include a cover sheet on which it is clearly indicated
28 the name of the beneficiary and whether the loan is commercial or
29 noncommercial. In addition to any other indexing requirements, the
30 auditor shall index the notice of trustee's sale by beneficiary.
31 Unless clearly indicated that the loan is commercial, three hundred
32 dollars must be remitted pursuant to RCW 61.24.173(1).

33 (b) The notice (~~(shall)~~) must be in substantially the following
34 form:

35 NOTICE OF TRUSTEE'S SALE

36 I.

37 NOTICE IS HEREBY GIVEN that the undersigned Trustee will on
38 the . . . day of, . . ., at the hour of
39 o'clock M. at

1 [street
2 address and location if inside a building] in the City
3 of, State of Washington, sell at public auction to the
4 highest and best bidder, payable at the time of sale, the following
5 described real property, situated in the County(ies) of,
6 State of Washington, to-wit:

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

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

19 II.

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

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

27 III.

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

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

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

33 IV.

34 The sum owing on the obligation secured by the Deed of Trust is:
35 Principal \$, together with interest as provided in the
36 note or other instrument secured from the day

1 of, . . ., and such other costs and fees as are due under
2 the note or other instrument secured, and as are provided by statute.

3 V.

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

22 VI.

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

25
26
27

28 by both first-class and certified mail on the day
29 of, . . ., proof of which is in the possession of the
30 Trustee; and the Borrower and Grantor were personally served on
31 the day of, . . ., with said written notice of
32 default or the written notice of default was posted in a conspicuous
33 place on the real property described in paragraph I above, and the
34 Trustee has possession of proof of such service or posting.

35 VII.

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

4 VIII.

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

8 IX.

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

14 [Add Part X to this notice if applicable under RCW 61.24.040(~~(+9)~~)
15 (11)]

16

17 , Trustee

18 }
19 }
20 }

23 Address

24

25 } Phone

26 [Acknowledgment]

27 (~~(+g)~~) (3) If the borrower received a letter under RCW
28 61.24.031, the notice specified in subsection (~~(+1)(f)~~) (2) of this
29 section (~~(shall)~~) must also include the following additional
30 language:

31 **"THIS NOTICE IS THE FINAL STEP BEFORE THE FORECLOSURE SALE OF YOUR**
32 **HOME.**

33 You have only 20 DAYS from the recording date on this notice to
34 pursue mediation.

1 DO NOT DELAY. CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN
2 WASHINGTON NOW to assess your situation and refer you to mediation if
3 you are eligible and it may help you save your home. See below for
4 safe sources of help.

5 **SEEKING ASSISTANCE**

6 Housing counselors and legal assistance may be available at little or
7 no cost to you. If you would like assistance in determining your
8 rights and opportunities to keep your house, you may contact the
9 following:

- 10 The statewide foreclosure hotline for assistance and referral to
11 housing counselors recommended by the Housing Finance Commission
12 Telephone: Web site:
13 The United States Department of Housing and Urban Development
14 Telephone: Web site:
15 The statewide civil legal aid hotline for assistance and referrals to
16 other housing counselors and attorneys
17 Telephone: Web
18 site:"

19 The beneficiary or trustee shall obtain the toll-free numbers and
20 web site information from the department for inclusion in the notice;
21 ~~((+2))~~ (4) In addition to providing the borrower and grantor the
22 notice of sale described in subsection ~~((+1)(f))~~ (2) of this
23 section, the trustee shall include with the copy of the notice which
24 is mailed to the grantor, a statement to the grantor in substantially
25 the following form:

26 **NOTICE OF FORECLOSURE**
27 Pursuant to the Revised Code of Washington,
28 Chapter 61.24 RCW

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

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

1		Estimated amount
2	Currently due	that will be due
3	to reinstate	to reinstate
4	on	on
5
6		(11 days before
7		the date set
8		for sale)
9	Delinquent payments	
10	from,	
11	. . . , in the	
12	amount of	
13	\$. . . /mo.:	\$ \$
14	Late charges in	
15	the total	
16	amount of:	\$ \$
17		Estimated
18		Amounts
19	Attorneys' fees:	\$ \$
20	Trustee's fee:	\$ \$
21	Trustee's expenses:	
22	(Itemization)	
23	Title report	\$ \$
24	Recording fees	\$ \$
25	Service/Posting	
26	of Notices	\$ \$
27	Postage/Copying	
28	expense	\$ \$
29	Publication	\$ \$
30	Telephone	\$
31	charges	\$
32	Inspection fees	\$ \$
33	\$ \$
34	\$ \$
35	TOTALS	\$ \$

1 To pay off the entire obligation secured by your Deed of Trust as
2 of the day of you must pay a total of
3 \$. . . . in principal, \$. . . . in interest, plus other costs and
4 advances estimated to date in the amount of \$. . . . From and
5 after the date of this notice you must submit a written request to
6 the Trustee to obtain the total amount to pay off the entire
7 obligation secured by your Deed of Trust as of the payoff date.

8 As to the defaults which do not involve payment of money to the
9 Beneficiary of your Deed of Trust, you must cure each such default.
10 Listed below are the defaults which do not involve payment of money
11 to the Beneficiary of your Deed of Trust. Opposite each such listed
12 default is a brief description of the action necessary to cure the
13 default and a description of the documentation necessary to show that
14 the default has been cured.

15	Default	Description of Action Required to Cure and
16		Documentation Necessary to Show Cure
17
18	
19	
20
21	
22	

23 You may reinstate your Deed of Trust and the obligation secured
24 thereby at any time up to and including the day
25 of , . . . [11 days before the sale date], by paying the
26 amount set forth or estimated above and by curing any other defaults
27 described above. Of course, as time passes other payments may become
28 due, and any further payments coming due and any additional late
29 charges must be added to your reinstating payment. Any new defaults
30 not involving payment of money that occur after the date of this
31 notice must also be cured in order to effect reinstatement. In
32 addition, because some of the charges can only be estimated at this
33 time, and because the amount necessary to reinstate or to pay off the
34 entire indebtedness may include presently unknown expenditures
35 required to preserve the property or to comply with state or local
36 law, it will be necessary for you to contact the Trustee before the
37 time you tender reinstatement or the payoff amount so that you may be
38 advised of the exact amount you will be required to pay. Tender of

1 payment or performance must be made to:, whose address
2 is, telephone () AFTER THE DAY
3 OF,, YOU MAY NOT REINSTATE YOUR DEED OF TRUST BY
4 PAYING THE BACK PAYMENTS AND COSTS AND FEES AND CURING THE OTHER
5 DEFAULTS AS OUTLINED ABOVE. The Trustee will respond to any written
6 request for current payoff or reinstatement amounts within ten days
7 of receipt of your written request. In such a case, you will only be
8 able to stop the sale by paying, before the sale, the total principal
9 balance (\$) plus accrued interest, costs and advances, if
10 any, made pursuant to the terms of the documents and by curing the
11 other defaults as outlined above.

12 You may contest this default by initiating court action in the
13 Superior Court of the county in which the sale is to be held. In such
14 action, you may raise any legitimate defenses you have to this
15 default. A copy of your Deed of Trust and documents evidencing the
16 obligation secured thereby are enclosed. You may wish to consult a
17 lawyer. Legal action on your part may prevent or restrain the sale,
18 but only if you persuade the court of the merits of your defense. You
19 may contact the Department of Financial Institutions or the statewide
20 civil legal aid hotline for possible assistance or referrals.

21 The court may grant a restraining order or injunction to restrain
22 a trustee's sale pursuant to RCW 61.24.130 upon five days notice to
23 the trustee of the time when, place where, and the judge before whom
24 the application for the restraining order or injunction is to be
25 made. This notice shall include copies of all pleadings and related
26 documents to be given to the judge. Notice and other process may be
27 served on the trustee at:

28 NAME:

29 ADDRESS:

30

31 TELEPHONE NUMBER:

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

37 ~~((3))~~ (5) In addition, the trustee shall cause a copy of the
38 notice of sale described in subsection ~~((1)(f))~~ (2) of this section

1 (excluding the acknowledgment) to be published in a legal newspaper
2 in each county in which the property or any part thereof is situated,
3 once on or between the thirty-fifth and twenty-eighth day before the
4 date of sale, and once on or between the fourteenth and seventh day
5 before the date of sale;

6 ~~((4))~~ (6) On the date and at the time designated in the notice
7 of sale, the trustee or its authorized agent shall sell the property
8 at public auction to the highest bidder. The trustee may sell the
9 property in gross or in parcels as the trustee shall deem most
10 advantageous;

11 ~~((5))~~ (7) The place of sale shall be at any designated public
12 place within the county where the property is located and if the
13 property is in more than one county, the sale may be in any of the
14 counties where the property is located. The sale shall be on Friday,
15 or if Friday is a legal holiday on the following Monday, and during
16 the hours set by statute for the conduct of sales of real estate at
17 execution;

18 ~~((6))~~ (8) The trustee has no obligation to, but may, for any
19 cause the trustee deems advantageous, continue the sale for a period
20 or periods not exceeding a total of one hundred twenty days by (a) a
21 public proclamation at the time and place fixed for sale in the
22 notice of sale and if the continuance is beyond the date of sale, by
23 giving notice of the new time and place of the sale by both first
24 class and either certified or registered mail, return receipt
25 requested, to the persons specified in subsection (1)(b)(i) and (ii)
26 of this section to be deposited in the mail (i) not less than four
27 days before the new date fixed for the sale if the sale is continued
28 for up to seven days; or (ii) not more than three days after the date
29 of the continuance by oral proclamation if the sale is continued for
30 more than seven days, or, alternatively, (b) by giving notice of the
31 time and place of the postponed sale in the manner and to the persons
32 specified in subsection (1)(b), (c), (d), and (e) of this section and
33 publishing a copy of such notice once in the newspaper(s) described
34 in subsection ~~((3))~~ (5) of this section, more than seven days
35 before the date fixed for sale in the notice of sale. No other notice
36 of the postponed sale need be given;

37 ~~((7))~~ (9) The purchaser shall forthwith pay the price bid and
38 on payment the trustee shall execute to the purchaser its deed; the
39 deed shall recite the facts showing that the sale was conducted in
40 compliance with all of the requirements of this chapter and of the

1 deed of trust, which recital shall be prima facie evidence of such
2 compliance and conclusive evidence thereof in favor of bona fide
3 purchasers and encumbrancers for value, except that these recitals
4 shall not affect the lien or interest of any person entitled to
5 notice under subsection (1) of this section, if the trustee fails to
6 give the required notice to such person. In such case, the lien or
7 interest of such omitted person shall not be affected by the sale and
8 such omitted person shall be treated as if such person was the holder
9 of the same lien or interest and was omitted as a party defendant in
10 a judicial foreclosure proceeding;

11 ~~((+8))~~ (10) The sale as authorized under this chapter shall not
12 take place less than one hundred ninety days from the date of default
13 in any of the obligations secured;

14 ~~((+9))~~ (11) If the trustee elects to foreclose the interest of
15 any occupant or tenant of property comprised solely of a single-
16 family residence, or a condominium, cooperative, or other dwelling
17 unit in a multiplex or other building containing fewer than five
18 residential units, the following notice shall be included as Part X
19 of the Notice of Trustee's Sale:

20 X. NOTICE TO OCCUPANTS OR TENANTS

21 The purchaser at the trustee's sale is entitled to possession of the
22 property on the 20th day following the sale, as against the grantor
23 under the deed of trust (the owner) and anyone having an interest
24 junior to the deed of trust, including occupants who are not tenants.
25 After the 20th day following the sale the purchaser has the right to
26 evict occupants who are not tenants by summary proceedings under
27 chapter 59.12 RCW. For tenant-occupied property, the purchaser shall
28 provide a tenant with written notice in accordance with RCW
29 61.24.060;

30 ~~((+10))~~ (12) Only one copy of all notices required by this
31 chapter need be given to a person who is both the borrower and the
32 grantor. All notices required by this chapter that are given to a
33 general partnership are deemed given to each of its general partners,
34 unless otherwise agreed by the parties.

35 **Sec. 10.** RCW 61.24.030 and 2012 c 185 s 9 are each amended to
36 read as follows:

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

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

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

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

12 (4) That no action commenced by the beneficiary of the deed of
13 trust is now pending to seek satisfaction of an obligation secured by
14 the deed of trust in any court by reason of the grantor's default on
15 the obligation secured: PROVIDED, That (a) the seeking of the
16 appointment of a receiver, or the filing of a civil case to obtain
17 court approval to access, secure, maintain, and preserve property
18 from waste or nuisance, shall not constitute an action for purposes
19 of this chapter; and (b) if a receiver is appointed, the grantor
20 shall be entitled to any rents or profits derived from property
21 subject to a homestead as defined in RCW 6.13.010. If the deed of
22 trust was granted to secure a commercial loan, this subsection shall
23 not apply to actions brought to enforce any other lien or security
24 interest granted to secure the obligation secured by the deed of
25 trust being foreclosed;

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

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

33 (7)(a) That, for residential real property, before the notice of
34 trustee's sale is recorded, transmitted, or served, the trustee shall
35 have proof that the beneficiary is the owner of any promissory note
36 or other obligation secured by the deed of trust. A declaration by
37 the beneficiary made under the penalty of perjury stating that the
38 beneficiary is the actual holder of the promissory note or other
39 obligation secured by the deed of trust shall be sufficient proof as
40 required under this subsection.

1 (b) Unless the trustee has violated his or her duty under RCW
2 61.24.010(4), the trustee is entitled to rely on the beneficiary's
3 declaration as evidence of proof required under this subsection.

4 (c) This subsection (7) does not apply to association
5 beneficiaries subject to chapter 64.32, 64.34, or 64.38 RCW;

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

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

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

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

23 (d) An itemized account of the amount or amounts in arrears if
24 the 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
27 obliged to pay to reinstate the deed of trust before the recording of
28 the notice of sale;

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

33 (g) A statement that failure to cure the alleged default within
34 thirty days of the date of mailing of the notice, or if personally
35 served, within thirty days of the date of personal service thereof,
36 may lead to recordation, transmittal, and publication of a notice of
37 sale, and that the property described in (a) of this subsection may
38 be sold at public auction at a date no less than one hundred twenty
39 days in the future, or no less than one hundred fifty days in the
40 future if the borrower received a letter under RCW 61.24.031;

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

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

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

11 (k) In the event the property secured by the deed of trust is
12 owner-occupied residential real property, a statement, prominently
13 set out at the beginning of the notice, which shall state as follows:

14 **"THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR**
15 **LOSING YOUR HOME.**

16 You may be eligible for mediation in front of a neutral third party
17 to help save your home.

18 **CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW**
19 to assess your situation and refer you to mediation if you might
20 benefit. Mediation **MUST** be requested between the time you receive the
21 Notice of Default and no later than twenty days after the Notice of
22 Trustee Sale is recorded.

23 **DO NOT DELAY.** If you do nothing, a notice of sale may be issued as
24 soon as 30 days from the date of this notice of default. The notice
25 of sale will provide a minimum of 120 days' notice of the date of the
26 actual foreclosure sale.

27 **BE CAREFUL** of people who claim they can help you. There are many
28 individuals and businesses that prey upon borrowers in distress.

29 **REFER TO THE CONTACTS BELOW** for sources of assistance.

30 **SEEKING ASSISTANCE**

31 Housing counselors and legal assistance may be available at little or
32 no cost to you. If you would like assistance in determining your
33 rights and opportunities to keep your house, you may contact the
34 following:

35 The statewide foreclosure hotline for assistance and referral to
36 housing counselors recommended by the Housing Finance Commission

37 Telephone: Web site:

1 The United States Department of Housing and Urban Development
2 Telephone: Web site:
3 The statewide civil legal aid hotline for assistance and referrals to
4 other housing counselors and attorneys
5 Telephone: Web site:"

6 The beneficiary or trustee shall obtain the toll-free numbers and
7 web site information from the department for inclusion in the notice;
8 and

9 (1) In the event the property secured by the deed of trust is
10 residential real property, the name and address of the owner of any
11 promissory notes or other obligations secured by the deed of trust
12 and the name, address, and telephone number of a party acting as a
13 servicer of the obligations secured by the deed of trust; and

14 (9) That, for owner-occupied residential real property, before
15 the notice of the trustee's sale is recorded, transmitted, or served,
16 the beneficiary has complied with RCW 61.24.031 and, if applicable,
17 RCW 61.24.163.

--- END ---