
SUBSTITUTE HOUSE BILL 1637

State of Washington

68th Legislature

2023 Regular Session

By House Civil Rights & Judiciary (originally sponsored by Representatives Orwall, Pollet, and Fitzgibbon)

READ FIRST TIME 02/14/23.

1 AN ACT Relating to prohibiting excessive fees or other charges
2 for locating or recovering foreclosure surplus funds and other
3 unclaimed property; amending RCW 61.24.135; adding a new section to
4 chapter 61.12 RCW; adding new sections to chapter 63.30 RCW; and
5 prescribing penalties.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 61.12
8 RCW to read as follows:

9 (1) It is unlawful for any person to seek or receive from any
10 person or contract with any person for any fee or compensation for
11 locating, or purporting to purchase or otherwise acquire the right to
12 recover, funds held by a court or county that are proceeds from a
13 foreclosure under this chapter and subject to disposition under RCW
14 61.12.150 in excess of:

15 (a) Five percent of the value thereof returned to such owner; and
16 (b) Reasonable attorneys' fees and costs, upon a motion and a
17 hearing by a court of competent jurisdiction.

18 (2) Any person who violates this section is guilty of a
19 misdemeanor and shall be fined not less than the amount of the fee or
20 charge he or she has sought or received or contracted for, and not

1 more than 10 times such amount, or imprisoned for not more than 30
2 days, or both.

3 (3) The legislature finds that the practices covered by this
4 section are matters vitally affecting the public interest for the
5 purpose of applying the consumer protection act, chapter 19.86 RCW.
6 Any violation of this section is not reasonable in relation to the
7 development and preservation of business and is an unfair or
8 deceptive act in trade or commerce and an unfair method of
9 competition for the purpose of applying the consumer protection act,
10 chapter 19.86 RCW. Remedies provided by chapter 19.86 RCW are
11 cumulative and not exclusive.

12 (4) Every contract for any fee or compensation for locating or
13 purporting to purchase the right to recover funds held by a court
14 that are proceeds from a foreclosure under this chapter and subject
15 to disposition under RCW 61.12.150 must contain the following notice
16 in 10-point boldface type or larger directly above the space reserved
17 in the contract for the signature of the buyer:

18 "NOTICE TO HOMEOWNER:

19 (1) Do not sign this contract before you read it or if any spaces
20 intended for the agreed terms are left blank.

21 (2) You are entitled to a copy of this contract at the time you
22 sign it.

23 (3) You may cancel this contract within 10 days of signing by
24 sending notice of cancellation by regular United States mail to the
25 other party at his or her address shown on the contract, which notice
26 shall be posted not later than midnight of the 10th day (excluding
27 Sundays and holidays) following your signing of the contract."

28 **Sec. 2.** RCW 61.24.135 and 2021 c 151 s 5 are each amended to
29 read as follows:

30 (1) It is an unfair or deceptive act or practice under the
31 consumer protection act, chapter 19.86 RCW, for any person, acting
32 alone or in concert with others, to offer, or offer to accept or
33 accept from another, any consideration of any type not to bid, or to
34 reduce a bid, at a sale of property conducted pursuant to a power of
35 sale in a deed of trust. The trustee may decline to complete a sale
36 or deliver the trustee's deed and refund the purchase price, if it
37 appears that the bidding has been collusive or defective, or that the
38 sale might have been void. However, it is not an unfair or deceptive
39 act or practice for any person, including a trustee, to state that a

1 property subject to a recorded notice of trustee's sale or subject to
2 a sale conducted pursuant to this chapter is being sold in an "as-is"
3 condition, or for the beneficiary to arrange to provide financing for
4 a particular bidder or to reach any good faith agreement with the
5 borrower, grantor, any guarantor, or any junior lienholder.

6 (2) It is an unfair or deceptive act in trade or commerce and an
7 unfair method of competition in violation of the consumer protection
8 act, chapter 19.86 RCW, for any person or entity to: (a) Violate the
9 duty of good faith under RCW 61.24.163; (b) fail to comply with the
10 requirements of RCW 61.24.174, as it existed prior to July 1, 2016,
11 61.24.173, or 61.24.190; or (c) fail to initiate contact with a
12 borrower and exercise due diligence as required under RCW 61.24.031.

13 (3) (a) It is unlawful for any person to seek or receive from any
14 person or contract with any person for any fee or compensation for
15 locating, or purporting to purchase or otherwise acquire the right to
16 recover, funds held by a court or county that are proceeds from a
17 foreclosure under this chapter and subject to disposition under RCW
18 61.24.080 in excess of:

19 (i) Five percent of the value thereof returned to such owner; and
20 (ii) Reasonable attorneys' fees and costs, upon a motion and a
21 hearing by a court of competent jurisdiction.

22 (b) Any person who violates (a) of this subsection is guilty of a
23 misdemeanor and shall be fined not less than the amount of the fee or
24 charge he or she has sought or received or contracted for, and not
25 more than 10 times such amount, or imprisoned for not more than 30
26 days, or both.

27 (c) The legislature finds that the practices covered by (a) of
28 this subsection are matters vitally affecting the public interest for
29 the purpose of applying the consumer protection act, chapter 19.86
30 RCW. Any violation of (a) of this subsection is not reasonable in
31 relation to the development and preservation of business and is an
32 unfair or deceptive act in trade or commerce and an unfair method of
33 competition for the purpose of applying the consumer protection act,
34 chapter 19.86 RCW. Remedies provided by chapter 19.86 RCW are
35 cumulative and not exclusive.

36 (4) Every contract for any fee or compensation for locating or
37 purporting to purchase the right to recover funds held by a court
38 that are proceeds from a foreclosure under this chapter and subject
39 to disposition under RCW 61.24.080 must contain the following notice

1 in 10-point boldface type or larger directly above the space reserved
2 in the contract for the signature of the buyer:

3 "NOTICE TO HOMEOWNER:

4 (1) Do not sign this contract before you read it or if any spaces
5 intended for the agreed terms are left blank.

6 (2) You are entitled to a copy of this contract at the time you
7 sign it.

8 (3) You may cancel this contract within 10 days of signing by
9 sending notice of cancellation by regular United States mail to the
10 other party at his or her address shown on the contract, which notice
11 shall be posted not later than midnight of the 10th day (excluding
12 Sundays and holidays) following your signing of the contract."

13 NEW SECTION. Sec. 3. A new section is added to chapter 63.30
14 RCW to read as follows:

15 (1) It is unlawful for any person to seek or receive from any
16 person or contract with any person for any fee or compensation for
17 locating or purporting to locate any property which he or she knows
18 has been reported or paid or delivered to the department of revenue
19 pursuant to this chapter, or funds held by a court or county, that
20 are proceeds from a foreclosure for delinquent property taxes,
21 assessments, or other liens, or, funds that are otherwise held by a
22 county because of a person's failure to claim funds held as
23 reimbursement for unowed taxes, fees, or other government charges, in
24 excess of five percent of the value thereof returned to such owner.

25 (2) The legislature finds that the practices covered by this
26 section are matters vitally affecting the public interest for the
27 purpose of applying the consumer protection act, chapter 19.86 RCW.
28 Any violation of this section is not reasonable in relation to the
29 development and preservation of business and is an unfair or
30 deceptive act in trade or commerce and an unfair method of
31 competition for the purpose of applying the consumer protection act,
32 chapter 19.86 RCW. Remedies provided by chapter 19.86 RCW are
33 cumulative and not exclusive.

34 (3) (a) This section applies retroactively to January 1, 2023, and
35 prospectively beginning with the effective date of this section.

36 (b) This section applies to all civil actions and proceedings
37 commenced prior to January 1, 2023, in which a claim or cause of
38 action was asserted pursuant to RCW 63.29.350, repealed in section
39 1505, chapter 225, Laws of 2022 and in which the requested remedies

1 are limited to civil remedies. Any such action or proceeding that may
2 have been dismissed as a result of the repeal of former RCW 63.29.350
3 is saved and reinstated, and may proceed under this section.

4 (c) This section applies to all claims and causes of action based
5 on conduct that occurred prior to January 1, 2023, and that violated
6 former RCW 63.29.350. Any such claim or cause of action that could
7 have been commenced under former RCW 63.29.350 and that has been
8 extinguished by the repeal of RCW 63.29.350 may proceed under this
9 section, provided that it is not barred by any applicable statute of
10 limitations.

11 NEW SECTION. **Sec. 4.** A new section is added to chapter 63.30
12 RCW to read as follows:

13 Any person who violates section 3(1) of this act is guilty of a
14 misdemeanor and shall be fined not less than the amount of the fee or
15 charge he or she has sought or received or contracted for, and not
16 more than 10 times such amount, or imprisoned for not more than 30
17 days, or both.

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