

RCW 61.24.090 Curing defaults before sale—Discontinuance of proceedings—Notice of discontinuance—Execution and acknowledgment—Payments tendered to trustee.

(1) At any time prior to the eleventh day before the date set by the trustee for the sale in the recorded notice of sale, or in the event the trustee continues the sale pursuant to *RCW 61.24.040(6), at any time prior to the eleventh day before the actual sale, the borrower, grantor, any guarantor, any beneficiary under a subordinate deed of trust, or any person having a subordinate lien or encumbrance of record on the trust property or any part thereof, shall be entitled to cause a discontinuance of the sale proceedings by curing the default or defaults set forth in the notice, which in the case of a default by failure to pay, shall be by paying to the trustee:

(a) The entire amount then due under the terms of the deed of trust and the obligation secured thereby, other than such portion of the principal as would not then be due had no default occurred, and

(b) The expenses actually incurred by the trustee enforcing the terms of the note and deed of trust, including a reasonable trustee's fee, together with the trustee's reasonable attorney's fees, together with costs of recording the notice of discontinuance of notice of trustee's sale.

(2) Any person entitled to cause a discontinuance of the sale proceedings shall have the right, before or after reinstatement, to request any court, excluding a small claims court, for disputes within the jurisdictional limits of that court, to determine the reasonableness of any fees demanded or paid as a condition to reinstatement. The court shall make such determination as it deems appropriate, which may include an award to the prevailing party of its costs and reasonable attorneys' fees, and render judgment accordingly. An action to determine fees shall not forestall any sale or affect its validity.

(3) Upon receipt of such payment the proceedings shall be discontinued, the deed of trust shall be reinstated and the obligation shall remain as though no acceleration had taken place.

(4) In the case of a default which is occasioned by other than failure to make payments, the person or persons causing the said default shall pay the expenses incurred by the trustee and the trustee's fees as set forth in subsection (1)(b) of this section.

(5) Any person having a subordinate lien of record on the trust property and who has cured the default or defaults pursuant to this section shall thereafter have included in his lien all payments made to cure any defaults, including interest thereon at eight percent per annum, payments made for trustees' costs and fees incurred as authorized, and reasonable attorney's fees and costs incurred resulting from any judicial action commenced to enforce his or her rights to advances under this section.

(6) If the default is cured and the obligation and the deed of trust reinstated in the manner provided, the trustee shall properly execute, acknowledge, and cause to be recorded a notice of discontinuance of trustee's sale under that deed of trust. A notice of discontinuance of trustee's sale when so executed and acknowledged is entitled to be recorded and shall be sufficient if it sets forth a record of the deed of trust and the auditor's file number under which the deed of trust is recorded, and a reference to the notice of sale and the auditor's file number under which the notice of sale is recorded, and a notice that the sale is discontinued.

(7) Any payments required under this section as a condition precedent to reinstatement of the deed of trust shall be tendered to the trustee in the form of cash, certified check, cashier's check, money order, or funds received by verified electronic transfer, or any combination thereof. [1998 c 295 s 11; 1987 c 352 s 4; 1981 c 161 s 6; 1975 1st ex.s. c 129 s 5; 1967 c 30 s 4; 1965 c 74 s 9.]

***Reviser's note:** RCW 61.24.040 was amended by 2018 c 306 s 2, changing subsection (6) to subsection (10).