
SENATE BILL 5554

State of Washington **55th Legislature** **1997 Regular Session**

By Senators Johnson, Roach and Finkbeiner

Read first time 01/31/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to deeds of trusts; amending RCW 61.24.010,
2 61.24.040, 61.24.050, 61.24.070, 61.24.080, 61.24.090, 61.24.100,
3 61.24.110, and 61.24.130; adding a new section to chapter 61.24 RCW;
4 and prescribing penalties.

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

6 **Sec. 1.** RCW 61.24.010 and 1991 c 72 s 58 are each amended to read
7 as follows:

8 (1) The terms "record" and "recorded" as used in this chapter,
9 shall include the appropriate registration proceedings, in the instance
10 of registered land.

11 (2) The trustee of a deed of trust under this chapter shall be:

12 (a) Any domestic corporation incorporated under Title 23B, 30, 31,
13 32, or 33 RCW; or

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

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

18 (d) Any professional corporation incorporated under chapter 18.100
19 RCW, all of whose shareholders are licensed attorneys; or

1 (e) Any agency or instrumentality of the United States government;
2 or

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

5 ~~(3) ((The trustee shall resign at the request of the beneficiary~~
6 ~~and may resign at its own election. Upon the resignation, incapacity,~~
7 ~~disability, or death of the trustee, the beneficiary shall nominate in~~
8 ~~writing a successor trustee.))~~ The beneficiary may appoint in writing
9 a successor trustee at any time. Upon recording in the mortgage
10 records of the county or counties in which the trust deed is recorded,
11 of the appointment of a successor trustee, the successor trustee shall
12 be vested with all powers of the original trustee. Recording of the
13 appointment of a successor trustee shall be deemed a resignation by the
14 predecessor trustee.

15 **Sec. 2.** RCW 61.24.040 and 1989 c 361 s 1 are each amended to read
16 as follows:

17 A deed of trust foreclosed under this chapter shall be foreclosed
18 as follows:

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

20 (a) Record a notice in the form described in RCW 61.24.040(1)(f) in
21 the office of the auditor in each county in which the deed of trust is
22 recorded;

23 (b) If their addresses are stated in a recorded instrument
24 evidencing their interest, lien, or claim of lien, or an amendment
25 thereto, or are otherwise known to the trustee, cause a copy of the
26 notice of sale described in RCW 61.24.040(1)(f) to be transmitted by
27 both first class and either certified or registered mail, return
28 receipt requested, to the following persons or their legal
29 representatives, if any, at such address:

30 (i) The grantor or the grantor's successor in interest;

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 any
38 portion or all of the property described in such notice, if that

1 contract, lease, or conveyance of such interest or estate, or a
2 memorandum or other notice thereof, was recorded after the recordation
3 of the deed of trust being foreclosed and before the recordation of the
4 notice of sale;

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

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

11 (c) Cause a copy of the notice of sale described in RCW
12 61.24.040(1)(f) to be transmitted by both first class and either
13 certified or registered mail, return receipt requested, to the
14 plaintiff or the plaintiff's attorney of record, in any court action to
15 foreclose a lien or other encumbrance on all or any part of the
16 property, provided a court action is pending and a lis pendens in
17 connection therewith is recorded in the office of the auditor of any
18 county in which all or part of the property is located on the date the
19 notice is recorded;

20 (d) Cause a copy of the notice of sale described in RCW
21 61.24.040(1)(f) to be transmitted by both first class and either
22 certified or registered mail, return receipt requested, to any person
23 who has recorded a request for notice in accordance with RCW 61.24.045,
24 at the address specified in such person's most recently recorded
25 request for notice;

26 (e) Cause a copy of the notice of sale described in RCW
27 61.24.040(1)(f) to be posted in a conspicuous place on the property, or
28 in lieu of posting, cause a copy of said notice to be served upon any
29 occupant of the property;

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

31 NOTICE OF TRUSTEE'S SALE

32 I.

33 NOTICE IS HEREBY GIVEN that the undersigned Trustee will on the
34 day of, 19. . ., at the hour of o'clock M.
35 at [street
36 address and location if inside a building] in the City of,
37 State of Washington, sell at public auction to the highest and best
38 bidder, payable at the time of sale, the following described real

1 property, situated in the County(ies) of, State of
2 Washington, to-wit:

3 which is subject to that certain Deed of Trust dated,
4 19. . . ., recorded, 19. . . ., under Auditor's File No.
5, records of County, Washington, from
6, as Grantor, to, as Trustee, to
7 secure an obligation in favor of, as Beneficiary, the
8 beneficial interest in which was assigned by, under
9 an Assignment recorded under Auditor's File No. [Include
10 recording information for all counties if the Deed of Trust is recorded
11 in more than one county.]

12 II.

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

17 III.

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

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

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

22 IV.

23 The sum owing on the obligation secured by the Deed of Trust is:
24 Principal \$, together with interest as provided in the note
25 or other instrument secured from the day of,
26 19. . . ., and such other costs and fees as are due under the note or
27 other instrument secured, and as are provided by statute.

1

V.

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

19

VI.

20 A written notice of default was transmitted by the Beneficiary or
21 Trustee to the Grantor or the Grantor's successor in interest at the
22 following address:

23
24
25

26 by both first class and certified mail on the day of
27, 19. . . ., proof of which is in the possession of the
28 Trustee; and the Grantor or the Grantor's successor in interest was
29 personally served on the day of, 19. . . ., with said
30 written notice of default or the written notice of default was posted
31 in a conspicuous place on the real property described in paragraph I
32 above, and the Trustee has possession of proof of such service or
33 posting.

1

VII.

2 After receiving a request for a statement of all costs and fees due at
3 any time prior to the sale from any person entitled to notice under RCW
4 61.24.040(1)(b), the Trustee whose name and address are set forth below
5 will provide the requested statement in writing to ((~~anyone requesting~~
6 it, a statement of all costs and fees due at any time prior to the
7 sale)) such person.

8

VIII.

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

12

IX.

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

18	. . . . .
19	. . . . .	, Trustee
20	. . . . .	}
21	. . . . .	{ Address
22	. . . . .	|
23	. . . . .	} Phone

24 [Individual or corporate acknowledgment]

25 (2) In addition to providing the grantor or the grantor's successor
26 in interest the notice of sale described in RCW 61.24.040(1)(f), the
27 trustee shall include with the copy of the notice which is mailed to
28 the grantor or the grantor's successor in interest, a statement to the
29 grantor or the grantor's successor in interest in substantially the
30 following form:

NOTICE OF FORECLOSURE

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, 19. . . .

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, 19. . . (11 days before the sale date). To date, these arrears and costs are as follows:

	Currently due	Estimated amount
	to reinstate	that will be due
	on.	to reinstate
	. . . . .	on.
	
		(11 days before
		the date set
		for sale)

Delinquent payments
from,
19. . ., 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 As to the defaults which do not involve payment of money to the
17 Beneficiary of your Deed of Trust, you must cure each such default.
18 Listed below are the defaults which do not involve payment of money to
19 the Beneficiary of your Deed of Trust. Opposite each such listed
20 default is a brief description of the action necessary to cure the
21 default and a description of the documentation necessary to show that
22 the default has been cured.

23	Default	Description of Action Required to Cure and
24		Documentation Necessary to Show Cure
25	. . . . .	. . . . .
26		. . . . .
27		. . . . .
28	. . . . .	. . . . .
29		. . . . .
30		. . . . .

31 You may reinstate your Deed of Trust and the obligation secured
32 thereby at any time up to and including the day of ,
33 19. . . (11 days before the sale date), by paying the amount set forth
34 or estimated above and by curing any other defaults described above.
35 Of course, as time passes other payments may become due, and any
36 further payments coming due and any additional late charges must be
37 added to your reinstating payment. Any new defaults not involving
38 payment of money that occur after the date of this notice must also be

1 cured in order to effect reinstatement. In addition, because some of
2 the charges can only be estimated at this time, and because the amount
3 necessary to reinstate may include presently unknown expenditures
4 required to preserve the property or to comply with state or local law,
5 it will be necessary for you to contact the Trustee before the time you
6 tender reinstatement so that you may be advised of the exact amount you
7 will be required to pay. Tender of payment or performance must be made
8 to:, whose address is, telephone ()
9 AFTER THE DAY OF, 19. . . ., YOU MAY NOT
10 REINSTATE YOUR DEED OF TRUST BY PAYING THE BACK PAYMENTS AND COSTS AND
11 FEES AND CURING THE OTHER DEFAULTS AS OUTLINED ABOVE. In such a case,
12 you will only be able to stop the sale by paying, before the sale, the
13 total principal balance (\$) plus accrued interest, costs
14 and advances, if any, made pursuant to the terms of the documents and
15 by curing the other defaults as outlined above.

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

23 If you do not reinstate the secured obligation and your Deed of
24 Trust in the manner set forth above, or if you do not succeed in
25 restraining the sale by court action, your property will be sold to
26 satisfy the obligations secured by your Deed of Trust. The effect of
27 such sale will be to deprive you and all those who hold by, through or
28 under you of all interest in the property;

29 (3) In addition, the trustee shall cause a copy of the notice of
30 sale described in RCW 61.24.040(1)(f) (excluding the acknowledgment) to
31 be published in a legal newspaper in each county in which the property
32 or any part thereof is situated, once on or between the (~~thirty-~~
33 ~~second~~) thirty-fifth and twenty-eighth day before the date of sale,
34 and once on or between the (~~eleventh~~) fourteenth and seventh day
35 before the date of sale;

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

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

7 (6) The trustee may for any cause the trustee deems advantageous,
8 continue the sale for a period or periods not exceeding a total of one
9 hundred twenty days by a public proclamation at the time and place
10 fixed for sale in the notice of sale or, alternatively, by giving
11 notice of the time and place of the postponed sale in the manner and to
12 the persons specified in RCW 61.24.040(1) (b), (c), (d), and (e) and
13 publishing a copy of such notice once in the newspaper(s) described in
14 RCW 61.24.040(3), more than seven days before the date fixed for sale
15 in the notice of sale. No other notice of the postponed sale need be
16 given;

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

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

33 **Sec. 3.** RCW 61.24.050 and 1965 c 74 s 5 are each amended to read
34 as follows:

35 The trustee's sale shall be deemed final when the bidding is closed
36 and either: (1) The beneficiary is the successful bidder or (2) the
37 trustee holds cash, a certified check, a cashier's check, a money
38 order, or funds received by electronic transfer, or any combination

1 thereof, payable to the trustee or the beneficiary in the amount of the
2 successful bid. The deed of the trustee, executed and delivered to the
3 purchaser, shall convey all of the right, title, and interest in the
4 property which the grantor had or had the power to convey at the time
5 of the execution by him of the deed of trust, and such as he may have
6 thereafter acquired. After sale, as in this chapter provided, no
7 person shall have any right by statute or otherwise to redeem from the
8 deed of trust or from the sale.

9 **Sec. 4.** RCW 61.24.070 and 1965 c 74 s 7 are each amended to read
10 as follows:

11 (1) The trustee may not bid at the trustee's sale. Any other
12 person including the beneficiary under the deed of trust may bid at the
13 trustee's sale.

14 (2) The beneficiary may credit bid all or any part of the
15 obligations secured by the deed of trust. If the beneficiary is the
16 purchaser, any amount bid in excess of the obligations secured by the
17 deed of trust shall be paid to the trustee in the form of cash,
18 certified check, cashier's check, or money order, or any combination
19 thereof. If the purchaser is not the beneficiary, the entire bid shall
20 be paid to the trustee in the form of cash, certified check, cashier's
21 check, money order, or funds received by electronic transfer, or any
22 combination thereof.

23 **Sec. 5.** RCW 61.24.080 and 1981 c 161 s 5 are each amended to read
24 as follows:

25 The trustee shall apply the proceeds of the sale as follows:

26 (1) To the expense of sale, including a reasonable charge by the
27 trustee and by his attorney: PROVIDED, That the aggregate of the
28 charges by the trustee and his attorney, for their services in the
29 sale, shall not exceed the amount which would, by the superior court of
30 the county in which the trustee's sale occurred, have been deemed a
31 reasonable attorney fee, had the trust deed been foreclosed as a
32 mortgage in a noncontested action in the said court;

33 (2) To the obligation secured by the deed of trust; and

34 (3) The surplus, if any, less the clerk's filing fee shall be
35 deposited together with written notice of the amount of the surplus, a
36 copy of the recorded notice of sale, and an affidavit of mailing as
37 provided below with the clerk of the superior court of the county in

1 which the sale took place. The trustee shall mail copies of the notice
2 of the surplus, the notice of sale, and the affidavit of mailing to
3 each party to whom the notice of sale was sent pursuant to RCW
4 61.24.040(1). The clerk shall index such funds under the name of the
5 grantor as set out in the recorded notice. Upon ~~((depositing such~~
6 ~~surplus))~~ compliance with the foregoing, the trustee shall be
7 discharged from all further responsibilities ~~((therefor))~~ for the
8 surplus. Interests in, or liens or claims of liens against the
9 property eliminated by sale under this section shall attach to such
10 surplus in the order of priority that it had attached to the property.
11 A party seeking disbursement of funds shall file a motion requesting
12 disbursement and shall mail notice of the motion to all parties to whom
13 the trustee mailed notice of the surplus and any other party who has
14 entered an appearance in the proceeding established by the notice of
15 surplus at least ten days prior to the hearing of the motion. The
16 clerk shall not disburse such surplus except upon order of the superior
17 court of such county.

18 **Sec. 6.** RCW 61.24.090 and 1987 c 352 s 4 are each amended to read
19 as follows:

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

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

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

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

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

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

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

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

36 (7) Any payments required under this section as a condition
37 precedent to reinstatement of the deed of trust shall be tendered to
38 the trustee in the form of cash, certified check, cashier's check,

1 money order, or funds received by electronic transfer, or any
2 combination thereof.

3 **Sec. 7.** RCW 61.24.100 and 1990 c 111 s 2 are each amended to read
4 as follows:

5 Foreclosure, as in this chapter provided, shall satisfy the
6 obligation secured by the deed of trust foreclosed, regardless of the
7 sale price or fair value, and no deficiency decree or other judgment
8 shall thereafter be obtained on such obligation, except that if such
9 obligation was not incurred primarily for personal, family, or
10 household purposes, such foreclosure shall not preclude any judicial or
11 nonjudicial foreclosure of any other deeds of trust, mortgages,
12 security agreements, or other security interests or liens covering any
13 real or personal property granted to secure such obligation or an
14 action on any guaranty of such obligation. Where foreclosure is not
15 made under this chapter, the beneficiary shall not be precluded from
16 enforcing the security as a mortgage nor from enforcing the obligation
17 by any means provided by law.

18 **Sec. 8.** RCW 61.24.110 and 1981 c 161 s 7 are each amended to read
19 as follows:

20 The trustee shall reconvey all or any part of the property covered
21 by the deed of trust to the person entitled thereto on written request
22 of the beneficiary, or upon satisfaction of the obligation secured and
23 written request for reconveyance made by the beneficiary or the person
24 entitled thereto. Alternatively, the beneficiary may execute any such
25 reconveyance.

26 **Sec. 9.** RCW 61.24.130 and 1987 c 352 s 5 are each amended to read
27 as follows:

28 (1) Nothing contained in this chapter shall prejudice the right of
29 the grantor, the grantor's successor in interest, or any person who has
30 an interest in, lien, or claim of lien against the property or some
31 part thereof, to restrain, on any proper ground, a trustee's sale. The
32 court shall require as a condition of granting the restraining order or
33 injunction that the applicant pay to the clerk of the court the sums
34 that would be due on the obligation secured by the deed of trust if the
35 deed of trust was not being foreclosed:

1 (a) In the case of default in making the periodic payment of
2 principal, interest, and reserves, such sums shall be the periodic
3 payment of principal, interest, and reserves paid to the clerk of the
4 court every thirty days.

5 (b) In the case of default in making payment of an obligation then
6 fully payable by its terms, such sums shall be the amount of interest
7 accruing monthly on said obligation at the nondefault rate, paid to the
8 clerk of the court every thirty days.

9 In the case of default in performance of any nonmonetary obligation
10 secured by the deed of trust, the court shall impose such conditions as
11 it deems just.

12 In addition, the court may condition granting the restraining order
13 or injunction upon the giving of security by the applicant, in such
14 form and amount as the court deems proper, for the payment of such
15 costs and damages, including attorneys' fees, as may be later found by
16 the court to have been incurred or suffered by any party by reason of
17 the restraining order or injunction. The court may consider, upon
18 proper showing, the grantor's equity in the property in determining the
19 amount of said security.

20 (2) No court may grant a restraining order or injunction to
21 restrain a trustee's sale ~~((unless))~~ except as provided in this
22 section. The person seeking the restraint shall give~~((s))~~ five court
23 days notice to the trustee and the beneficiary of the time when, place
24 where, and the judge before whom the application for the restraining
25 order or injunction is to be made. No judge may act upon such
26 application unless it is accompanied by proof, evidenced by return of
27 a sheriff, the sheriff's deputy, or by any person eighteen years of age
28 or over who is competent to be a witness, that the notice has been
29 timely served on the trustee.

30 (3) If the restraining order or injunction is dissolved after the
31 date of the trustee's sale set forth in the notice as provided in RCW
32 61.24.040(1)(f) ~~((and after the period for continuing sale as allowed~~
33 ~~by RCW 61.24.040(6)))~~, the court granting such restraining order or
34 injunction, or before whom the order or injunction is returnable, has
35 the right to set a new sale date which shall be not less than forty-
36 five days from the date of the order dissolving the restraining order.
37 ~~((At least thirty days before the new sale date,))~~ The trustee shall:

38 (a) Comply with the requirements of RCW 61.24.040(1) (a) through
39 (f) at least thirty days before the new sale date; and

1 (b) Cause a copy of the notice of trustee's sale as provided in RCW
2 61.24.040(1)(f) to be published (~~((once weekly during the three weeks~~
3 ~~preceding the time of sale))~~) in a legal newspaper in each county in
4 which the property or any part thereof is situated, once between the
5 thirty-fifth and twenty-eighth day before the sale and once between the
6 fourteenth and seventh day before the sale.

7 (4) If a trustee's sale has been stayed as a result of the filing
8 of a petition in federal bankruptcy court and(~~(, after the period for~~
9 ~~continuing sale as allowed by RCW 61.24.040(6),)~~) an order is entered
10 in federal bankruptcy court granting relief from the stay or closing or
11 dismissing the case, or discharging the debtor with the effect of
12 removing the stay, the trustee may set a new sale date which shall not
13 be less than forty-five days after the date of the bankruptcy court's
14 order. The trustee shall:

15 (a) Comply with the requirements of RCW 61.24.040(1) (a) through
16 (f) at least thirty days before the new sale date; and

17 (b) Cause a copy of the notice as provided in RCW 61.24.040(1)(f)
18 to be published in a legal newspaper in each county in which the
19 property or any part thereof is situated, once between the (~~(thirty-~~
20 ~~second))~~ thirty-fifth and twenty-eighth day before the sale and once
21 between the (~~(eleventh))~~ fourteenth and seventh day before the sale.

22 (5) The provisions of subsections (3) and (4) of this section are
23 permissive only and may not be interpreted to prohibit the trustee from
24 proceeding with a trustee's sale following termination of any
25 injunction or stay on any date to which such sale has been properly
26 continued in accordance with RCW 61.24.040(6).

27 NEW SECTION. Sec. 10. A new section is added to chapter 61.24 RCW
28 to read as follows:

29 (1) It is unlawful for a person, acting alone or in concert with
30 others to (a) offer, offer to accept, or accept from another any
31 consideration of any type not to bid; or (b) fix or restrain bidding in
32 any manner, at a sale of property conducted pursuant to a power of sale
33 in a deed of trust. However, it is not unlawful for a person,
34 including a trustee, to state that a property subject to a recorded
35 notice of trustee's sale or subject to a sale conducted pursuant to
36 this chapter is being sold in an "as-is" condition or for the
37 beneficiary to arrange to provide financing for a particular bidder.

1 (2) A violation of this section is punishable as a gross
2 misdemeanor according to chapter 9A.20 RCW.

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