
SENATE BILL 6515

State of Washington

62nd Legislature

2012 Regular Session

By Senators Kline, Hobbs, Kastama, Fain, Litzow, and Harper

Read first time 01/26/12. Referred to Committee on Financial Institutions, Housing & Insurance.

1 AN ACT Relating to the rescission of a trustee's foreclosure sale;
2 and amending RCW 61.24.050.

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

4 **Sec. 1.** RCW 61.24.050 and 1998 c 295 s 7 are each amended to read
5 as follows:

6 (~~When delivered~~) (1) Upon physical delivery of the trustee's deed
7 to the purchaser, or a different grantee as designated by the purchaser
8 following the trustee's sale, the trustee's deed shall convey all of
9 the right, title, and interest in the real and personal property sold
10 at the trustee's sale which the grantor had or had the power to convey
11 at the time of the execution of the deed of trust, and such as the
12 grantor may have thereafter acquired. Except as provided in subsection
13 (2) of this section, if the trustee accepts a bid, then the trustee's
14 sale is final as of the date and time of such acceptance if the
15 trustee's deed is recorded within fifteen days thereafter. After a
16 trustee's sale, no person shall have any right, by statute or
17 otherwise, to redeem the property sold at the trustee's sale.

18 (2)(a) Up to the eleventh day following the trustee's sale, the

1 trustee, beneficiary, or agent for the beneficiary may declare the
2 trustee's sale and trustee's deed void for the following reasons:

3 (i) The trustee, beneficiary, or servicer for the beneficiary
4 assert that there was an error with the trustee foreclosure sale
5 process including, but not limited to, an erroneous opening bid amount
6 made by or on behalf of the foreclosing beneficiary at the trustee's
7 sale;

8 (ii) The borrower and beneficiary, or servicer for the beneficiary,
9 had agreed in writing prior to the trustee's sale to a loan
10 modification agreement, forbearance plan, shared appreciation mortgage,
11 or other loss mitigation agreement to postpone or discontinue the
12 trustee's sale; or

13 (iii) The beneficiary or servicer for the beneficiary had accepted
14 funds that fully reinstated or satisfied the loan even if the
15 beneficiary or servicer for the beneficiary had no legal duty to do so.

16 (b) This subsection does not impose a duty upon the trustee any
17 different than the obligations set forth under RCW 61.24.010 (3) and
18 (4).

19 (3) The trustee shall refund the bid amount together with interest
20 for the time period between the date that the trustee received the
21 money and the third day following the postmarked mailing of the
22 refunded bid amount to the purchaser or the date that the refunded bid
23 amount was physically delivered by the trustee to the purchaser,
24 whichever date is sooner. Interest must be calculated at the maximum
25 rate permitted under RCW 19.52.020(1) in effect on the date of the
26 rescinded trustee sale.

27 (4) No later than fifteen days following the voided trustee's sale
28 date, the trustee shall send a notice in substantially the following
29 form by first-class mail and certified mail, return receipt requested,
30 to all parties entitled to notice under RCW 61.24.040(1) (b) through
31 (e):

32 NOTICE OF RESCISSION OF TRUSTEE'S SALE

33 NOTICE IS HEREBY GIVEN that the trustee's sale that occurred on
34 (trustee's sale date) is rescinded and declared void because (insert
35 the applicable reason(s) permitted under RCW 61.24.050(2)(a)).

36 The trustee's sale occurred pursuant to that certain Notice of
37 Trustee's Sale dated,, recorded,, under

1 Auditor's File No., records of County, Washington, and
2 that certain Deed of Trust dated, recorded
3 ., under Auditor's File No., records of County,
4 Washington, from, as Grantor, to, as, as
5 original Beneficiary, concerning the following described property,
6 situated in the County(ies) of, State of Washington, to wit:

7 (Legal description)

8 Commonly known as (common property address)

9 (5) If the reason for the rescission stems from subsection (2)(a)
10 (i) or (ii) of this section, the trustee may set a new sale date not
11 less than forty-five days following the mailing of the notice of
12 rescission of trustee's sale. The trustee shall:

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

15 (b) Cause a copy of the notice of trustee's sale as provided in RCW
16 61.24.040(1)(f) to be published in a legal newspaper in each county in
17 which the property or any part of the property is situated, once
18 between the thirty-fifth and twenty-eighth day before the sale and once
19 between the fourteenth and seventh day before the sale.

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