H-0498.1

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**SUBSTITUTE HOUSE BILL 1108**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** House Civil Rights & Judiciary (originally sponsored by Representatives Orwall, Ortiz-Self, Kloba, Hackney, Chopp, Santos, Macri, Pollet, and Harris-Talley)

AN ACT Relating to maintaining funding and assistance for homeowners navigating the foreclosure process; amending RCW 61.24.166 and 61.24.173; creating a new section; providing an expiration date; and declaring an emergency.

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

NEW SECTION. **Sec.**  The legislature finds that whether mediation, reporting, and payment provisions of the foreclosure fairness act apply to any particular beneficiary in a given year is tied to the number of trustee's sales and number of notices of trustee's sale recorded in the preceding year. The legislature further finds that, due to the federal foreclosure moratorium in place from at least March of 2020 through December of 2020 and into the year 2021, it is likely that, absent legislative action, the mediation, reporting, and payment provisions of the foreclosure fairness act will apply to very few if any beneficiaries in calendar year 2021 or 2022 because the threshold numbers that trigger application of these provisions will not be met. The legislature therefore intends to put in place a temporary stopgap remedy so that vital assistance provisions of the foreclosure fairness act are not lost at the very time that foreclosure activity is likely to be increasing.

**Sec.**  RCW 61.24.166 and 2011 c 58 s 9 are each amended to read as follows:

((~~The~~)) (1) Except as provided in subsection (2) of this section, the provisions of RCW 61.24.163 do not apply to any federally insured depository institution, as defined in 12 U.S.C. Sec. 461(b)(1)(A), that certifies to the department under penalty of perjury that it was not a beneficiary of deeds of trust in more than ((~~two hundred fifty~~)) 250 trustee sales of owner-occupied residential real property that occurred in this state during the preceding calendar year. A federally insured depository institution certifying that RCW 61.24.163 does not apply must do so annually, beginning no later than ((~~thirty~~)) 30 days after July 22, 2011, and no later than January 31st of each year thereafter.

(2)(a) During the 2021 calendar year, the provisions of RCW 61.24.163 do not apply to any federally insured depository institution, as defined in 12 U.S.C. Sec. 461(b)(1)(A), that certifies to the department under penalty of perjury that it was not a beneficiary of deeds of trust in more than 250 trustee sales of owner-occupied residential real property that occurred in this state during 2019. A federally insured depository institution certifying that RCW 61.24.163 does not apply pursuant to this subsection must do so no later than 30 days after the effective date of this section.

(b) During the 2022 calendar year, the provisions of RCW 61.24.163 do not apply to any federally insured depository institution, as defined in 12 U.S.C. Sec. 461(b)(1)(A), that certifies to the department under penalty of perjury that it was not a beneficiary of deeds of trust in more than 250 trustee sales of owner-occupied residential property that occurred in this state during 2019. A federally insured depository institution certifying that RCW 61.24.163 does not apply pursuant to this subsection must do so no later than January 31, 2022.

**Sec.**  RCW 61.24.173 and 2018 c 306 s 7 are each amended to read as follows:

(1) Except as provided in subsections (5) and (6) of this section, beginning July 1, 2016, and every quarter thereafter, every beneficiary on whose behalf a notice of trustee's sale has been recorded pursuant to RCW 61.24.040 on residential real property under this chapter must:

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

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

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

(2) For each notice of trustee's sale recorded on residential real property, the beneficiary on whose behalf the notice of trustee's sale has been recorded shall remit ((~~three hundred twenty-five dollars~~)) $325 to the department to be deposited, as provided under RCW 61.24.172, into the foreclosure fairness account. The ((~~three hundred twenty-five dollar~~)) $325 payment is required for every recorded notice of trustee's sale for noncommercial loans on residential real property, but does not apply to the recording of an amended notice of trustee's sale. No later than January 1, 2020, the department may from time to time adjust the amount of the fee, not to exceed ((~~three hundred twenty-five dollars~~)) $325, at a sufficient level to defray the costs of the program. The beneficiary shall remit the total amount required in a lump sum each quarter.

(3) Any adjustment to the amount of the fee, pursuant to the authority of subsection (2) of this section, shall be made by rule adopted by the department in accordance with the provisions of chapter 34.05 RCW.

(4) Reporting and payments under subsections (1) and (2) of this section are due within ((~~forty-five~~)) 45 days of the end of each quarter.

(5) ((~~This~~)) (a) Except as provided in (b) of this subsection, this section does not apply to any beneficiary or loan servicer that is a federally insured depository institution, as defined in 12 U.S.C. Sec. 461(b)(1)(A), and that certifies under penalty of perjury that fewer than ((~~fifty~~)) 50 notices of trustee's sale were recorded on its behalf in the preceding year.

(b) During the 2021 and 2022 calendar years, this section does not apply to any beneficiary or loan servicer that is a federally insured depository institution, as defined in 12 U.S.C. Sec. 461(b)(1)(A), and that certifies under penalty of perjury that fewer than 50 notices of trustee's sale were recorded on its behalf in 2019.

(6) This section does not apply to association beneficiaries subject to chapter 64.32, 64.34, or 64.38 RCW.

(7) For purposes of this section, "residential real property" includes residential real property with up to four dwelling units, whether or not the property or any part thereof is owner-occupied.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. **Sec.**  This act expires December 31, 2022.

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