

RCW 61.24.135 Consumer protection act—Unfair or deceptive acts or practices—Penalties—Notice. (1) It is an unfair or deceptive act or practice under the consumer protection act, chapter 19.86 RCW, for any person, acting alone or in concert with others, to offer, or offer to accept or accept from another, any consideration of any type not to bid, or to reduce a bid, at a sale of property conducted pursuant to a power of sale in a deed of trust. The trustee may decline to complete a sale or deliver the trustee's deed and refund the purchase price, if it appears that the bidding has been collusive or defective, or that the sale might have been void. However, it is not an unfair or deceptive act or practice for any person, including a trustee, to state that a property subject to a recorded notice of trustee's sale or subject to a sale conducted pursuant to this chapter is being sold in an "as-is" condition, or for the beneficiary to arrange to provide financing for a particular bidder or to reach any good faith agreement with the borrower, grantor, any guarantor, or any junior lienholder.

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

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

(i) Five percent of the value thereof returned to such owner; and

(ii) Reasonable attorneys' fees and costs, upon a motion and a hearing by a court of competent jurisdiction.

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

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

(4) Every contract for any fee or compensation for locating or purporting to purchase the right to recover funds held by a court that are proceeds from a foreclosure under this chapter and subject to disposition under RCW 61.24.080 must contain the following notice in 10-point boldface type or larger directly above the space reserved in the contract for the signature of the buyer:

"NOTICE TO HOMEOWNER:

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

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

(3) You may cancel this contract within 10 days of signing by sending notice of cancellation by regular United States mail to the other party at his or her address shown on the contract, which notice shall be posted not later than midnight of the 10th day (excluding Sundays and holidays) following your signing of the contract." [2023 c 206 § 11; 2021 c 151 § 5; 2016 c 196 § 3; 2011 c 58 § 14; 2008 c 153 § 6; 1998 c 295 § 15.]

Reviser's note: *(1) RCW 61.24.174 was repealed by 2016 c 196 § 4.

** (2) RCW 61.24.173 was repealed by 2021 c 151 § 13, effective June 30, 2023.

Effective date—2021 c 151 §§ 5, 9, 11, and 12: "Sections 5, 9, 11, and 12 of this act take effect January 1, 2022." [2021 c 151 § 16.]

Findings—Intent—2021 c 151: See note following RCW 61.24.005.

Effective date—2016 c 196: See note following RCW 61.24.172.

Findings—Intent—Short title—2011 c 58: See notes following RCW 61.24.005.