
SUBSTITUTE HOUSE BILL 1644

State of Washington

61st Legislature

2009 Regular Session

By House Judiciary (originally sponsored by Representatives Maxwell, Miloscia, Clibborn, Ormsby, Hurst, Green, and Orwall)

READ FIRST TIME 02/23/09.

1 AN ACT Relating to reconveyances of deeds of trust; and amending
2 RCW 61.24.110.

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

4 **Sec. 1.** RCW 61.24.110 and 1998 c 295 s 13 are each amended to read
5 as follows:

6 (1) The trustee or successor trustee shall reconvey all or any part
7 of the property encumbered by the deed of trust to the person entitled
8 thereto on written request of the beneficiary, or upon satisfaction of
9 the obligation secured and written request for reconveyance made by the
10 beneficiary or the person entitled thereto.

11 (2) If the beneficiary has received payment as specified by the
12 beneficiary's demand statement and fails to request reconveyance within
13 thirty days of the date payment was received, a title insurance company
14 or title insurance agent, licensed escrow agent, or an attorney, or an
15 agent acting on behalf of a title insurance company or title insurance
16 agent, licensed escrow agent, or an attorney, upon receipt of notice of
17 the beneficiary's failure to request reconveyance, may act as the agent
18 for the person entitled to reconveyance and may submit in writing proof

1 of satisfaction and request the trustee or successor trustee to
2 reconvey the deed of trust.

3 (3)(a) In addition to the procedure available in subsection (2) of
4 this section, if a title insurance company or title insurance agent, or
5 an agent of the title insurance company or title insurance agent,
6 satisfies the obligation, the title insurance company or title
7 insurance agent may, no less than seventy-five days after satisfying
8 the obligation, begin the process of issuing and recording a release of
9 the deed of trust upon written request of the grantor, payment of
10 reasonable charges, if applicable, and compliance with the notice
11 requirements of this subsection. This subsection (3) does not excuse
12 the beneficiary or trustee or successor trustee from compliance with
13 subsections (1) and (2) of this section.

14 (b) Prior to the issuance and recording of a release under this
15 subsection (3), the title insurance company or insurance agent shall
16 give notice of the intention to record a release of the deed of trust
17 to the beneficiary of record and, if different, the party to whom the
18 full satisfaction payment was made. The notice must:

19 (i) Provide that the parties to whom the notice is sent have a
20 period of thirty days from the date of mailing to send to the title
21 insurance company or insurance agent written objections to the
22 execution and recording of the release of the deed of trust;

23 (ii) Be sent by first-class mail with postage prepaid, addressed to
24 the named interested parties at their last known addresses; and

25 (iii) Identify the deed of trust by the name of the original
26 grantor and any successor in interest on whose behalf payment was made
27 and by the recording reference.

28 (c) The release of the deed of trust must recite on the first page
29 that it has been executed and recorded under this section and must
30 reference this section. The release must be properly acknowledged and
31 set forth:

32 (i) The name of the original beneficiary and the name of the
33 beneficiary to whom the payment was made or on whose behalf payment was
34 made;

35 (ii) The name of the original grantor of the deed of trust;

36 (iii) The recording reference to the deed of trust that is to be
37 released;

1 (iv) A recital that the obligation secured by the deed of trust has
2 been paid in full;

3 (v) The date and amount of payment and the party that was paid;

4 (vi) The date of mailing of notice required under this section; and

5 (vii) A recital that no written objections were received by the
6 title insurance company or title insurance agent.

7 (d) The release of deed of trust executed under this section is
8 entitled to recordation and, when recorded, is deemed to be the
9 equivalent of a reconveyance of a deed of trust.

10 (e) The title insurance company or title insurance agent shall not
11 record or cause to be recorded a release of the deed of trust when any
12 of the following circumstances exist:

13 (i) The thirty-day period following the notice given under this
14 section has not expired; or

15 (ii) Written objection to recordation has been received by the
16 title insurance company or title insurance agent from any of the
17 parties to whom notice was sent.

18 (f) If a fee has not previously been paid to or waived by the
19 trustee, successor trustee, title insurance company, or title insurance
20 agent for services related to preparing, executing, recording, and
21 otherwise complying with this subsection to effect the release of the
22 deed of trust, the trustee, successor trustee, title insurance company,
23 or title insurance agent may charge a reasonable fee for such services.

24 (g) In addition to any other remedy provided by law, a title
25 insurance company or title insurance agent preparing, executing, or
26 recording a release of deed of trust is liable to any party for damages
27 that the party sustains by reason of the issuance, execution, or
28 recording of the release under this section. The court may award
29 reasonable attorneys' fees to the prevailing party in an action under
30 this section, except the court may not award attorneys' fees to a
31 prevailing party under this section if the action is maintained as a
32 class action.

33 (h) This subsection (3) applies to all deeds of trust, whether
34 executed before, on, or after the effective date of this act.

--- END ---