

SSB 5797 - S AMD 122
By Senator Mullet

ADOPTED 03/08/2017

1 Strike everything after the enacting clause and insert the
2 following:

3 NEW SECTION. **Sec. 1.** A new section is added to chapter 61.24
4 RCW to read as follows:

5 (1) A certificate of abandonment may be obtained for a fee
6 through the housing finance commission by using a form and subject to
7 the terms and conditions developed by the housing finance commission
8 in conjunction with the servicing industry, trustees, and civil legal
9 aid. The housing finance commission must determine the costs
10 associated with the application process and set a reasonable
11 application fee based upon these costs. The fee must not exceed one
12 hundred dollars.

13 (2) Upon issuance of a certificate of abandonment, or upon
14 receipt of notification from a servicer pursuant to section 2 or 3 of
15 this act, the housing finance commission must notify the appropriate
16 city, town, or county.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 61.24
18 RCW to read as follows:

19 (1) A servicer to whom a borrower, after default, has granted
20 written permission to enter the premises to inspect, secure, repair,
21 or maintain the premises may enter the premises and act in accordance
22 with the scope of the permission granted by the borrower.

23 (2) A servicer in possession of a court order allowing entry onto
24 the premises to access, secure, maintain, and preserve the premises
25 may enter the premises and act in accordance with the scope of the
26 court order.

27 (3) A certificate of abandonment is not necessary under this
28 section, but the servicer must notify the housing finance commission
29 that it has obtained a court order or been granted written permission
30 from the borrower in order that the commission may notify the
31 appropriate city, town, or county.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 61.24
2 RCW to read as follows:

3 (1) A servicer may perform reasonable external maintenance
4 without the borrower's permission if, after default and after
5 reasonable inspection and notice in accordance with this section,
6 there is reasonable cause to believe that the property is abandoned.

7 (2) A certificate of abandonment is not necessary under this
8 section, but the servicer must notify the housing finance commission
9 that it intends to perform reasonable external maintenance in order
10 that the commission may notify the appropriate city, town, or county.

11 (3) For purposes of this section:

12 (a) "Notice" means a written notice posted on the door, informing
13 the occupants that in three days the servicer or its agent intends to
14 perform external maintenance of the property. The notice must remain
15 on the door until the servicer is contacted by the borrower or lawful
16 occupant or until foreclosure is complete. The notice must include
17 all of the following:

18 (i) Information about the borrower's or lawful occupant's right
19 to possession;

20 (ii) A twenty-four hour phone number that the borrower or lawful
21 occupant may call with questions or concerns or to obtain
22 information; and

23 (iii) The toll-free telephone number or charge-free equivalent
24 made available by the department to find a department-approved
25 housing counseling agency.

26 (b) "Reasonable cause to believe that the property is abandoned"
27 means that the property exhibits a lack of evidence of occupancy and
28 at least one of the following indicia of abandonment:

29 (i) Overgrown or dead vegetation;

30 (ii) An accumulation of newspapers, circulars, fliers, or mail;

31 (iii) Past due utility notices, or some or all of the utilities
32 have been disconnected;

33 (iv) An accumulation of trash, junk, or debris;

34 (v) Broken windows.

35 (c) "Reasonable external maintenance" includes:

36 (i) Maintaining landscaping;

37 (ii) Collecting and disposing of newspapers, circulars, trash,
38 and debris;

39 (iii) Painting over graffiti or tagging; and

1 (iv) The removal of hazardous property. If property is removed,
2 the servicer must inventory and document the removal.

3 (d) "Reasonable inspection" means inspection from the street
4 without entering the property.

5 NEW SECTION. **Sec. 4.** A new section is added to chapter 61.24
6 RCW to read as follows:

7 (1) A certificate of abandonment for entry into a dwelling
8 without the borrower's permission permits a servicer or its agent to
9 enter the property to take reasonable steps to secure the property.
10 Upon issuance of a certificate of abandonment, the housing finance
11 commission must notify the appropriate city, town, or county.

12 (2) The following conditions must be met before issuance of a
13 certificate of abandonment:

14 (a) The borrower is in default and the property is abandoned, as
15 indicated by the presence of at least three of the following indicia
16 of abandonment visible from the exterior: (i) The absence of
17 furnishings and personal items consistent with residential
18 habitation; (ii) the gas, electric, and water utility services have
19 been disconnected; (iii) statements by neighbors, passersby, delivery
20 agents, or government employees that the property is vacant; (iv)
21 multiple windows on the property are boarded up or closed off or are
22 smashed through, broken, or unhinged, or multiple window panes are
23 broken and unrepaired; (v) doors on the residence are smashed
24 through, broken off, unhinged, or continuously unlocked; (vi) the
25 property has been stripped of copper or other materials, or interior
26 fixtures have been removed; (vii) law enforcement officials have
27 received at least one report of trespassing or vandalism or other
28 illegal activities occurring on the property within the immediately
29 preceding six months; (viii) the property has been declared unfit for
30 occupancy and ordered to remain vacant and unoccupied pursuant to an
31 order issued by a municipal or county authority or a court of
32 competent jurisdiction; (ix) construction was initiated on the
33 property and was discontinued before completion, leaving a building
34 unsuitable for occupancy, and construction has not taken place for at
35 least six months; (x) newspapers, circulars, flyers, or mail has
36 accumulated on the property or the United States postal service has
37 discontinued delivery to the property; (xi) rubbish, trash, debris,
38 neglected vegetation, or natural overgrowth has accumulated on the
39 property; (xii) hazardous, noxious, or unhealthy substances or

1 materials have accumulated on the property; (xiii) other credible
2 evidence exists indicating the intent to vacate and abandon the
3 property; and either

4 (b) The property is open and unprotected or in reasonable danger
5 of significant damage resulting from exposure to the elements or
6 vandalism; or

7 (c) The local police, fire department, or code enforcement
8 authority has requested that the borrower, owner, or any other
9 interested or authorized party secure the residential real property
10 because the local authority has declared the property to be an
11 imminent danger to the health, safety, and welfare of the public.

12 (3) Within seven days of issuance of the certificate of
13 abandonment, the servicer or its agent must post a written notice on
14 the door informing the occupants that after thirty days the servicer
15 or its agent intends to enter the dwelling to take reasonable steps
16 to secure the property. The notice must remain on the door until the
17 servicer is contacted by the borrower or lawful occupant or until
18 foreclosure is complete. The notice must include all of the
19 following:

20 (a) Information about the borrower's or lawful occupant's right
21 to possession;

22 (b) A twenty-four hour phone number that the borrower or lawful
23 occupant may call with questions or concerns or to obtain
24 information; and

25 (c) The phone number of a housing counseling agency and
26 information regarding the foreclosure fairness act.

27 (4) Absent the threat of imminent danger of harm, the servicer or
28 its agent must wait thirty days after posting the notice before
29 entering to take reasonable steps to secure the property. If there is
30 imminent danger of harm, the servicer or its agent need not wait
31 thirty days but may enter immediately and, simultaneous with entry,
32 post the notice required under subsection (3) of this section.

33 (5) Reasonable steps to secure the property include:

34 (a) Installing missing locks on exterior doors. Working locks may
35 not be removed or replaced, unless all doors are secured and there is
36 no other means of entry, and in such cases only one working lock may
37 be removed and replaced;

38 (b) Replacing or boarding broken or missing windows;

39 (c) Winterizing, including draining pipes and disconnecting or
40 turning on utilities;

1 (d) Eliminating building code or other code violations; or

2 (e) Securing exterior pools and spas.

3 (6) The servicer must document all steps to enter and secure the
4 property, including taking date and time-stamped photographs of
5 entry, and the manner of entry.

6 (7) Personal property may not be removed unless it is hazardous
7 or perishable, and in such case an inventory and photographs of the
8 property removed must be made.

9 (8) The servicer or agent must retain all documentation and
10 photographs for a period of four years.

11 (9) The servicer and its agents must promptly exit the property
12 if, upon entry, there are signs of occupancy.

13 (10) For purposes of this section, "imminent danger of harm"
14 means:

15 (a) Active flooding, including damage to the roof such that water
16 is entering the structure;

17 (b) Extreme weather conditions exist and immediate and extensive
18 property damage is likely;

19 (c) Notification by the police, fire department, or code
20 enforcement that there is immediate danger to health, safety, and
21 welfare of the public; or

22 (d) Broken windows or damaged doors that could allow unlawful
23 access to the property.

24 NEW SECTION. **Sec. 5.** A new section is added to chapter 61.24
25 RCW to read as follows:

26 The authority of an agent, such as a property preservation
27 entity, to enter abandoned property and to perform any sort of work
28 derives solely from the servicer's authority. A servicer has a duty
29 to monitor its agents and to make sure that its agents possess the
30 required permit, license, certificate, or registration, and are
31 properly bonded and insured if so required. The servicer must require
32 that the agent implement stringent background check requirements for
33 all of its employees engaged in on-site property preservation.

34 NEW SECTION. **Sec. 6.** A new section is added to chapter 61.24
35 RCW to read as follows:

36 (1) As used in this section:

37 (a) "Maintain" means:

38 (i) Securing doors and windows;

1 (ii) Landscaping;

2 (iii) Collecting and disposing of newspapers, circulars, trash,
3 and debris;

4 (iv) Removing hazardous property;

5 (v) Securing exterior pools and hot tubs; and

6 (vi) Eliminating other threats to public health and safety.

7 (b) "Reasonable costs" means actual and demonstrable costs that
8 are commensurate with and do not exceed the market rate for services
9 necessary to remedy a condition resulting from a failure to maintain,
10 plus the actual and demonstrable costs of administering a contract
11 for services to remedy the condition or the portion of the costs of a
12 program to remedy the condition that is attributable to remedying a
13 condition for specific property.

14 (2)(a) Beginning thirty days after obtaining written permission
15 or a court order as described under section 2 of this act or the
16 issuance of a certificate of abandonment under section 4 of this act,
17 and until the later of the recording of the trustee's deed by the
18 purchaser or fifteen days after physical delivery of the trustee's
19 deed to the purchaser, a beneficiary or its agent or servicer is
20 under a duty to maintain the property during any period in which the
21 property is vacant.

22 (b) A servicer must provide the servicer's name or the name of
23 the servicer's agent and a telephone number or other means for
24 contacting the servicer or agent to an official that the local
25 government designates to receive the information described in this
26 subsection.

27 (c) The servicer must post a durable notice in a conspicuous
28 location on the property that lists a telephone number for the
29 servicer or for the local government that a person may call to report
30 a condition of neglect. The servicer must replace the notice if the
31 notice is removed from the property during a period when the property
32 is vacant.

33 (d) A servicer or the agent of a servicer must identify the
34 borrower to the local government and provide to, and maintain with,
35 the local government current contact information during a period when
36 the property is vacant.

37 (3)(a) If a local government finds a violation of subsection
38 (2)(a) of this section, the local government must notify the
39 servicer, in writing, that the property is the subject of the
40 violation and in accordance with (b) or (c) of this subsection, as

1 appropriate, must specify a time within which the servicer must
2 remedy the condition that is the basis for the local government's
3 finding.

4 (b) The local government must allow the servicer not fewer than
5 thirty days to remedy the violation, unless the local government
6 makes a determination under (c) of this subsection, and must provide
7 the servicer with an opportunity to contest the local government's
8 finding at a hearing. The servicer must contest the local
9 government's finding within ten days after the local government
10 notifies the servicer of the violation.

11 (c) If the local government determines that a specific condition
12 of the property constitutes a threat to public health or safety, the
13 local government may require the servicer to remedy the specific
14 condition in fewer than thirty days, provided that the local
15 government specifies in the written notice the date by which the
16 servicer must remedy the specific condition. A local government may
17 specify in the written notice different dates by which the servicer
18 must remedy separate conditions of neglect on the foreclosed
19 residential real property.

20 (4)(a) After a local government allows a servicer the time
21 specified in subsection (3)(b) of this section or makes a
22 determination under subsection (3)(c) of this section, the local
23 government may remedy or contract with another person to remedy and
24 require the servicer to reimburse the local government for reasonable
25 costs the local government incurs under this subsection.

26 (b) A local government that has incurred costs with respect to
27 property under (a) of this subsection has a lien on the property for
28 the sum of the local government's unreimbursed costs. A lien created
29 under this subsection is prior to all other liens and encumbrances,
30 except that the lien has equal priority with a tax lien. The lien
31 attaches at the time the local government files a claim of lien with
32 the county clerk of the county in which the property is located. A
33 local government may bring an action in the superior court to
34 foreclose the lien in the manner provided for foreclosing other liens
35 on real or personal property.

36 NEW SECTION. **Sec. 7.** A new section is added to chapter 61.24
37 RCW to read as follows:

38 (1) As used in this section:

39 (a) "Neglect" means:

1 (i) To fail or a failure to maintain the buildings, grounds, or
2 appurtenances of property in such a way as to allow:

3 (A) Excessive growth of foliage that diminishes the value of
4 adjacent property;

5 (B) Trespassers to remain on the foreclosed residential real
6 property or in a structure located on the foreclosed residential real
7 property;

8 (C) Mosquito larvae or pupae to grow in standing water on the
9 property; or

10 (D) Other conditions on the property that cause or contribute to
11 causing a public nuisance;

12 (ii) To fail or a failure to monitor the condition of property by
13 inspecting the property at least once every thirty days with
14 sufficient attention so as to prevent, or to identify and remedy, a
15 condition described in (a)(i) of this subsection.

16 (b) "Reasonable costs" means actual and demonstrable costs that
17 are commensurate with and do not exceed the market rate for services
18 necessary to remedy a condition of neglect, plus the actual and
19 demonstrable costs of administering a contract for services to remedy
20 a condition of neglect or the portion of the costs of a program to
21 remedy conditions of neglect that are attributable to remedying a
22 condition of neglect for specific property.

23 (2)(a) A servicer is under an obligation to maintain and may not
24 neglect the property during any period in which the property is
25 vacant.

26 (b) A servicer must provide the servicer's name or the name of
27 the servicer's agent and a telephone number or other means for
28 contacting the servicer or agent to an official that the local
29 government designates to receive the information described in this
30 subsection.

31 (c) The servicer must post a durable notice in a conspicuous
32 location on the property that lists a telephone number for the
33 servicer or for the local government that a person may call to report
34 a condition of neglect. The servicer must replace the notice if the
35 notice is removed from the property during a period when the property
36 is vacant.

37 (d) A servicer or the agent of a servicer must identify the
38 borrower to the local government and provide to, and maintain with,
39 the local government current contact information during a period when
40 the property is vacant.

1 (3)(a) If a local government finds a violation of subsection
2 (2)(a) of this section, the local government must notify the
3 servicer, in writing, that the property is the subject of the
4 violation and in accordance with (b) or (c) of this subsection, as
5 appropriate, must specify a time within which the servicer must
6 remedy the condition of neglect that is the basis for the local
7 government's finding.

8 (b) The local government must allow the servicer not fewer than
9 thirty days to remedy the violation, unless the local government
10 makes a determination under (c) of this subsection, and must provide
11 the servicer with an opportunity to contest the local government's
12 finding at a hearing. The servicer must contest the local
13 government's finding within ten days after the local government
14 notifies the servicer of the violation.

15 (c) If the local government determines that a specific condition
16 of the property constitutes a threat to public health or safety, the
17 local government may require the servicer to remedy the specific
18 condition in fewer than thirty days, provided that the local
19 government specifies in the written notice the date by which the
20 servicer must remedy the specific condition. A local government may
21 specify in the written notice different dates by which the servicer
22 must remedy separate conditions of neglect on the foreclosed
23 residential real property.

24 (4)(a) After a local government allows a servicer the time
25 specified in subsection (3)(b) of this section or makes a
26 determination under subsection (3)(c) of this section, the local
27 government may remedy or contract with another person to remedy
28 neglect or a specific condition of neglect on property and require
29 the servicer to reimburse the local government for reasonable costs
30 the local government incurs under this subsection.

31 (b) A local government that has incurred costs with respect to
32 property under (a) of this subsection has a lien on the property for
33 the sum of the local government's unreimbursed costs. A lien created
34 under this subsection is prior to all other liens and encumbrances,
35 except that the lien has equal priority with a tax lien. The lien
36 attaches at the time the local government files a claim of lien with
37 the county clerk of the county in which the property is located. A
38 local government may bring an action in the superior court to
39 foreclose the lien in the manner provided for foreclosing other liens
40 on real or personal property.

1 **Sec. 8.** RCW 61.24.173 and 2016 c 196 s 2 are each amended to
2 read as follows:

3 ~~(1) ((Except as provided in subsections (4) and (5) of this~~
4 ~~section, beginning July 1, 2016, and every quarter thereafter, every~~
5 ~~beneficiary on whose behalf a notice of trustee's sale has been~~
6 ~~recorded pursuant to RCW 61.24.040 on residential real property under~~
7 ~~this chapter must:~~

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

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

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

17 ~~(2))~~ For each notice of trustee's sale recorded on residential
18 real property, the beneficiary on whose behalf the notice of
19 trustee's sale has been recorded shall remit ~~((two hundred fifty~~
20 ~~dollars to the department to be deposited, as provided under RCW~~
21 ~~61.24.172, into the foreclosure fairness account))~~ three hundred
22 dollars to the county auditor or recording officer at the time of
23 recording the notice of trustee's sale. The ~~((two))~~ three hundred
24 ~~((fifty))~~ dollar payment is required for every recorded notice of
25 trustee's sale for noncommercial loans on residential real property,
26 but does not apply to the recording of an amended notice of trustee's
27 sale. ~~((If the beneficiary previously made a payment under RCW~~
28 ~~61.24.174, as it existed prior to July 1, 2016, for a notice of~~
29 ~~default supporting the recorded notice of trustee's sale, no payment~~
30 ~~is required under this section. The beneficiary shall remit the total~~
31 ~~amount required in a lump sum each quarter.~~

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

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

39 ~~(5))~~ (a) The county auditor or recording officer shall retain
40 three percent for collection of the fee and the amount retained must

1 be used for purposes of operations and maintenance consistent with
2 RCW 36.22.170(2)(b).

3 (b) The county treasurer or recording officer shall remit the
4 remaining funds to the state treasurer on a monthly basis for deposit
5 into the foreclosure fairness account.

6 (2) Any beneficiary or loan servicer that is a federally insured
7 depository institution, as defined in 12 U.S.C. Sec. 461(b)(1)(A),
8 that records fewer than fifty notices of trustee's sale for
9 residential real property during a calendar year may apply to the
10 department for a refund of the recording fee established under this
11 section. At the option of the beneficiary or loan servicer, a refund
12 application may be submitted on a quarterly or an annual basis
13 according to rules adopted by the department.

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

16 ~~((+6))~~ (4) For purposes of this section, "residential real
17 property" includes residential real property with up to four dwelling
18 units, whether or not the property or any part thereof is owner-
19 occupied.

20 **Sec. 9.** RCW 61.24.040 and 2012 c 185 s 10 are each amended to
21 read as follows:

22 A deed of trust foreclosed under this chapter shall be foreclosed
23 as follows:

24 (1) At least ninety days before the sale, or if a letter under
25 RCW 61.24.031 is required, at least one hundred twenty days before
26 the sale, the trustee shall:

27 (a) Record a notice in the form described in ~~((+f) of this)~~
28 subsection (2) of this section in the office of the auditor in each
29 county in which the deed of trust is recorded;

30 (b) To the extent the trustee elects to foreclose its lien or
31 interest, or the beneficiary elects to preserve its right to seek a
32 deficiency judgment against a borrower or grantor under RCW
33 61.24.100(3)(a), and if their addresses are stated in a recorded
34 instrument evidencing their interest, lien, or claim of lien, or an
35 amendment thereto, or are otherwise known to the trustee, cause a
36 copy of the notice of sale described in ~~((+f) of this)~~
37 (2) of this section to be transmitted by both first-class and either
38 certified or registered mail, return receipt requested, to the

1 following persons or their legal representatives, if any, at such
2 address:

3 (i) The borrower and grantor;

4 (ii) The beneficiary of any deed of trust or mortgagee of any
5 mortgage, or any person who has a lien or claim of lien against the
6 property, that was recorded subsequent to the recordation of the deed
7 of trust being foreclosed and before the recordation of the notice of
8 sale;

9 (iii) The vendee in any real estate contract, the lessee in any
10 lease, or the holder of any conveyances of any interest or estate in
11 any portion or all of the property described in such notice, if that
12 contract, lease, or conveyance of such interest or estate, or a
13 memorandum or other notice thereof, was recorded after the
14 recordation of the deed of trust being foreclosed and before the
15 recordation of the notice of sale;

16 (iv) The last holder of record of any other lien against or
17 interest in the property that is subject to a subordination to the
18 deed of trust being foreclosed that was recorded before the
19 recordation of the notice of sale;

20 (v) The last holder of record of the lien of any judgment
21 subordinate to the deed of trust being foreclosed; and

22 (vi) The occupants of property consisting solely of a single-
23 family residence, or a condominium, cooperative, or other dwelling
24 unit in a multiplex or other building containing fewer than five
25 residential units, whether or not the occupant's rental agreement is
26 recorded, which notice may be a single notice addressed to
27 "occupants" for each unit known to the trustee or beneficiary;

28 (c) Cause a copy of the notice of sale described in (~~((f))~~
29 ~~this~~) subsection (2) of this section to be transmitted by both
30 first-class and either certified or registered mail, return receipt
31 requested, to the plaintiff or the plaintiff's attorney of record, in
32 any court action to foreclose a lien or other encumbrance on all or
33 any part of the property, provided a court action is pending and a
34 lis pendens in connection therewith is recorded in the office of the
35 auditor of any county in which all or part of the property is located
36 on the date the notice is recorded;

37 (d) Cause a copy of the notice of sale described in (~~((f))~~
38 ~~this~~) subsection (2) of this section to be transmitted by both
39 first-class and either certified or registered mail, return receipt
40 requested, to any person who has recorded a request for notice in

1 accordance with RCW 61.24.045, at the address specified in such
2 person's most recently recorded request for notice;

3 (e) Cause a copy of the notice of sale described in ~~((f))~~
4 ~~this))~~ subsection (2) of this section to be posted in a conspicuous
5 place on the property, or in lieu of posting, cause a copy of said
6 notice to be served upon any occupant of the property;

7 ~~((f))~~ (2)(a) The notice required in subsection (1) of this
8 section must include a cover sheet on which it is clearly indicated
9 the name of the beneficiary and whether the loan is commercial or
10 noncommercial. In addition to any other indexing requirements, the
11 auditor shall index the notice of trustee's sale by beneficiary.
12 Unless clearly indicated that the loan is commercial, three hundred
13 dollars must be remitted pursuant to RCW 61.24.173(1).

14 (b) The notice ~~((shall))~~ must be in substantially the following
15 form:

16 NOTICE OF TRUSTEE'S SALE

17 I.

18 NOTICE IS HEREBY GIVEN that the undersigned Trustee will on
19 the day of, . . ., at the hour of
20 o'clock M. at
21 [street
22 address and location if inside a building] in the City
23 of, State of Washington, sell at public auction to the
24 highest and best bidder, payable at the time of sale, the following
25 described real property, situated in the County(ies) of,
26 State of Washington, to-wit:

27 [If any personal property is to be included in the trustee's
28 sale, include a description that reasonably identifies such
29 personal property]

30 which is subject to that certain Deed of Trust
31 dated, . . ., recorded, . . ., under
32 Auditor's File No., records of County,
33 Washington, from, as Grantor, to,
34 as Trustee, to secure an obligation in favor of, as
35 Beneficiary, the beneficial interest in which was assigned
36 by, under an Assignment recorded under Auditor's
37 File No. [Include recording information for all counties if
38 the Deed of Trust is recorded in more than one county.]

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II.

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

[If there is another action pending to foreclose other security for all or part of the same debt, qualify the statement and identify the action.]

III.

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

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

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

IV.

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

V.

The above-described real property will be sold to satisfy the expense of sale and the obligation secured by the Deed of Trust as provided by statute. The sale will be made without warranty, express or implied, regarding title, possession, or encumbrances on the day of, . . . The default(s) referred to in paragraph III must be cured by the day of, . . . (11 days before the sale date), to cause a discontinuance of the sale. The sale will be discontinued and terminated if at any time on or before the day of, . . ., (11 days before the sale date), the default(s) as set forth in paragraph III is/are cured and the Trustee's fees and costs are paid. The sale may be terminated any time after the day of, . . . (11 days before the sale date), and before the sale by the Borrower, Grantor, any Guarantor, or the holder of any recorded junior lien or encumbrance paying the entire principal and interest secured by the Deed of

1 Trust, plus costs, fees, and advances, if any, made pursuant to the
2 terms of the obligation and/or Deed of Trust, and curing all other
3 defaults.

4 VI.

5 A written notice of default was transmitted by the Beneficiary or
6 Trustee to the Borrower and Grantor at the following addresses:

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8
9

10 by both first-class and certified mail on the day
11 of, . . ., proof of which is in the possession of the
12 Trustee; and the Borrower and Grantor were personally served on
13 the day of, . . ., with said written notice of
14 default or the written notice of default was posted in a conspicuous
15 place on the real property described in paragraph I above, and the
16 Trustee has possession of proof of such service or posting.

17 VII.

18 The Trustee whose name and address are set forth below will provide
19 in writing to anyone requesting it, a statement of all costs and fees
20 due at any time prior to the sale.

21 VIII.

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

25 IX.

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

31 [Add Part X to this notice if applicable under RCW 61.24.040((+9+))
32 (11)]

33
34 , Trustee

1 }
2 }
3 }

6 Address
7
8 } Phone

9 [Acknowledgment]

10 ((~~g~~)) (3) If the borrower received a letter under RCW
11 61.24.031, the notice specified in subsection ((~~1~~)(~~f~~)) (2) of this
12 section ((~~shall~~)) must also include the following additional
13 language:

14 **"THIS NOTICE IS THE FINAL STEP BEFORE THE FORECLOSURE SALE OF YOUR**
15 **HOME.**

16 You have only 20 DAYS from the recording date on this notice to
17 pursue mediation.

18 **DO NOT DELAY. CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN**
19 **WASHINGTON NOW** to assess your situation and refer you to mediation if
20 you are eligible and it may help you save your home. See below for
21 safe sources of help.

22 **SEEKING ASSISTANCE**

23 Housing counselors and legal assistance may be available at little or
24 no cost to you. If you would like assistance in determining your
25 rights and opportunities to keep your house, you may contact the
26 following:

27 The statewide foreclosure hotline for assistance and referral to
28 housing counselors recommended by the Housing Finance Commission

29 Telephone: Web site:

30 The United States Department of Housing and Urban Development

31 Telephone: Web site:

32 The statewide civil legal aid hotline for assistance and referrals to
33 other housing counselors and attorneys

34 Telephone: Web
35 site:"

36 The beneficiary or trustee shall obtain the toll-free numbers and
37 web site information from the department for inclusion in the notice;

1	Attorneys' fees:	\$....	\$....
2	Trustee's fee:	\$....	\$....
3	Trustee's expenses:		
4	(Itemization)		
5	Title report	\$....	\$....
6	Recording fees	\$....	\$....
7	Service/Posting		
8	of Notices	\$....	\$....
9	Postage/Copying		
10	expense	\$....	\$....
11	Publication	\$....	\$....
12	Telephone		\$....
13	charges	\$....	
14	Inspection fees	\$....	\$....
15	\$....	\$....
16	\$....	\$....
17	TOTALS	\$....	\$....

18 To pay off the entire obligation secured by your Deed of Trust as
19 of the day of you must pay a total of
20 \$. . . . in principal, \$. . . . in interest, plus other costs and
21 advances estimated to date in the amount of \$. . . . From and
22 after the date of this notice you must submit a written request to
23 the Trustee to obtain the total amount to pay off the entire
24 obligation secured by your Deed of Trust as of the payoff date.

25 As to the defaults which do not involve payment of money to the
26 Beneficiary of your Deed of Trust, you must cure each such default.
27 Listed below are the defaults which do not involve payment of money
28 to the Beneficiary of your Deed of Trust. Opposite each such listed
29 default is a brief description of the action necessary to cure the
30 default and a description of the documentation necessary to show that
31 the default has been cured.

32	Default	Description of Action Required to Cure and
33		Documentation Necessary to Show Cure
34
35	
36	

1
2
3

4 You may reinstate your Deed of Trust and the obligation secured
5 thereby at any time up to and including the day
6 of, . . . [11 days before the sale date], by paying the
7 amount set forth or estimated above and by curing any other defaults
8 described above. Of course, as time passes other payments may become
9 due, and any further payments coming due and any additional late
10 charges must be added to your reinstating payment. Any new defaults
11 not involving payment of money that occur after the date of this
12 notice must also be cured in order to effect reinstatement. In
13 addition, because some of the charges can only be estimated at this
14 time, and because the amount necessary to reinstate or to pay off the
15 entire indebtedness may include presently unknown expenditures
16 required to preserve the property or to comply with state or local
17 law, it will be necessary for you to contact the Trustee before the
18 time you tender reinstatement or the payoff amount so that you may be
19 advised of the exact amount you will be required to pay. Tender of
20 payment or performance must be made to:, whose address
21 is, telephone () AFTER THE DAY
22 OF, . . ., YOU MAY NOT REINSTATE YOUR DEED OF TRUST BY
23 PAYING THE BACK PAYMENTS AND COSTS AND FEES AND CURING THE OTHER
24 DEFAULTS AS OUTLINED ABOVE. The Trustee will respond to any written
25 request for current payoff or reinstatement amounts within ten days
26 of receipt of your written request. In such a case, you will only be
27 able to stop the sale by paying, before the sale, the total principal
28 balance (\$) plus accrued interest, costs and advances, if
29 any, made pursuant to the terms of the documents and by curing the
30 other defaults as outlined above.

31 You may contest this default by initiating court action in the
32 Superior Court of the county in which the sale is to be held. In such
33 action, you may raise any legitimate defenses you have to this
34 default. A copy of your Deed of Trust and documents evidencing the
35 obligation secured thereby are enclosed. You may wish to consult a
36 lawyer. Legal action on your part may prevent or restrain the sale,
37 but only if you persuade the court of the merits of your defense. You
38 may contact the Department of Financial Institutions or the statewide
39 civil legal aid hotline for possible assistance or referrals.

1 The court may grant a restraining order or injunction to restrain
2 a trustee's sale pursuant to RCW 61.24.130 upon five days notice to
3 the trustee of the time when, place where, and the judge before whom
4 the application for the restraining order or injunction is to be
5 made. This notice shall include copies of all pleadings and related
6 documents to be given to the judge. Notice and other process may be
7 served on the trustee at:

8 NAME:
9 ADDRESS:
10
11 TELEPHONE NUMBER:

12 If you do not reinstate the secured obligation and your Deed of
13 Trust in the manner set forth above, or if you do not succeed in
14 restraining the sale by court action, your property will be sold. The
15 effect of such sale will be to deprive you and all those who hold by,
16 through or under you of all interest in the property;

17 ~~((3))~~ (5) In addition, the trustee shall cause a copy of the
18 notice of sale described in subsection ~~((1)(f))~~ (2) of this section
19 (excluding the acknowledgment) to be published in a legal newspaper
20 in each county in which the property or any part thereof is situated,
21 once on or between the thirty-fifth and twenty-eighth day before the
22 date of sale, and once on or between the fourteenth and seventh day
23 before the date of sale;

24 ~~((4))~~ (6) On the date and at the time designated in the notice
25 of sale, the trustee or its authorized agent shall sell the property
26 at public auction to the highest bidder. The trustee may sell the
27 property in gross or in parcels as the trustee shall deem most
28 advantageous;

29 ~~((5))~~ (7) The place of sale shall be at any designated public
30 place within the county where the property is located and if the
31 property is in more than one county, the sale may be in any of the
32 counties where the property is located. The sale shall be on Friday,
33 or if Friday is a legal holiday on the following Monday, and during
34 the hours set by statute for the conduct of sales of real estate at
35 execution;

36 ~~((6))~~ (8) The trustee has no obligation to, but may, for any
37 cause the trustee deems advantageous, continue the sale for a period
38 or periods not exceeding a total of one hundred twenty days by (a) a

1 public proclamation at the time and place fixed for sale in the
2 notice of sale and if the continuance is beyond the date of sale, by
3 giving notice of the new time and place of the sale by both first
4 class and either certified or registered mail, return receipt
5 requested, to the persons specified in subsection (1)(b)(i) and (ii)
6 of this section to be deposited in the mail (i) not less than four
7 days before the new date fixed for the sale if the sale is continued
8 for up to seven days; or (ii) not more than three days after the date
9 of the continuance by oral proclamation if the sale is continued for
10 more than seven days, or, alternatively, (b) by giving notice of the
11 time and place of the postponed sale in the manner and to the persons
12 specified in subsection (1)(b), (c), (d), and (e) of this section and
13 publishing a copy of such notice once in the newspaper(s) described
14 in subsection ~~((+3+))~~ (5) of this section, more than seven days
15 before the date fixed for sale in the notice of sale. No other notice
16 of the postponed sale need be given;

17 ~~((+7+))~~ (9) The purchaser shall forthwith pay the price bid and
18 on payment the trustee shall execute to the purchaser its deed; the
19 deed shall recite the facts showing that the sale was conducted in
20 compliance with all of the requirements of this chapter and of the
21 deed of trust, which recital shall be prima facie evidence of such
22 compliance and conclusive evidence thereof in favor of bona fide
23 purchasers and encumbrancers for value, except that these recitals
24 shall not affect the lien or interest of any person entitled to
25 notice under subsection (1) of this section, if the trustee fails to
26 give the required notice to such person. In such case, the lien or
27 interest of such omitted person shall not be affected by the sale and
28 such omitted person shall be treated as if such person was the holder
29 of the same lien or interest and was omitted as a party defendant in
30 a judicial foreclosure proceeding;

31 ~~((+8+))~~ (10) The sale as authorized under this chapter shall not
32 take place less than one hundred ninety days from the date of default
33 in any of the obligations secured;

34 ~~((+9+))~~ (11) If the trustee elects to foreclose the interest of
35 any occupant or tenant of property comprised solely of a single-
36 family residence, or a condominium, cooperative, or other dwelling
37 unit in a multiplex or other building containing fewer than five
38 residential units, the following notice shall be included as Part X
39 of the Notice of Trustee's Sale:

1 X. NOTICE TO OCCUPANTS OR TENANTS

2 The purchaser at the trustee's sale is entitled to possession of the
3 property on the 20th day following the sale, as against the grantor
4 under the deed of trust (the owner) and anyone having an interest
5 junior to the deed of trust, including occupants who are not tenants.
6 After the 20th day following the sale the purchaser has the right to
7 evict occupants who are not tenants by summary proceedings under
8 chapter 59.12 RCW. For tenant-occupied property, the purchaser shall
9 provide a tenant with written notice in accordance with RCW
10 61.24.060;

11 ~~((+10))~~ (12) Only one copy of all notices required by this
12 chapter need be given to a person who is both the borrower and the
13 grantor. All notices required by this chapter that are given to a
14 general partnership are deemed given to each of its general partners,
15 unless otherwise agreed by the parties.

16 **Sec. 10.** RCW 61.24.030 and 2012 c 185 s 9 are each amended to
17 read as follows:

18 It shall be requisite to a trustee's sale:

19 (1) That the deed of trust contains a power of sale;

20 (2) That the deed of trust contains a statement that the real
21 property conveyed is not used principally for agricultural purposes;
22 provided, if the statement is false on the date the deed of trust was
23 granted or amended to include that statement, and false on the date
24 of the trustee's sale, then the deed of trust must be foreclosed
25 judicially. Real property is used for agricultural purposes if it is
26 used in an operation that produces crops, livestock, or aquatic
27 goods;

28 (3) That a default has occurred in the obligation secured or a
29 covenant of the grantor, which by the terms of the deed of trust
30 makes operative the power to sell;

31 (4) That no action commenced by the beneficiary of the deed of
32 trust is now pending to seek satisfaction of an obligation secured by
33 the deed of trust in any court by reason of the grantor's default on
34 the obligation secured: PROVIDED, That (a) the seeking of the
35 appointment of a receiver, or the filing of a civil case to obtain
36 court approval to access, secure, maintain, and preserve property
37 from waste or nuisance, shall not constitute an action for purposes
38 of this chapter; and (b) if a receiver is appointed, the grantor

1 shall be entitled to any rents or profits derived from property
2 subject to a homestead as defined in RCW 6.13.010. If the deed of
3 trust was granted to secure a commercial loan, this subsection shall
4 not apply to actions brought to enforce any other lien or security
5 interest granted to secure the obligation secured by the deed of
6 trust being foreclosed;

7 (5) That the deed of trust has been recorded in each county in
8 which the land or some part thereof is situated;

9 (6) That prior to the date of the notice of trustee's sale and
10 continuing thereafter through the date of the trustee's sale, the
11 trustee must maintain a street address in this state where personal
12 service of process may be made, and the trustee must maintain a
13 physical presence and have telephone service at such address;

14 (7)(a) That, for residential real property, before the notice of
15 trustee's sale is recorded, transmitted, or served, the trustee shall
16 have proof that the beneficiary is the owner of any promissory note
17 or other obligation secured by the deed of trust. A declaration by
18 the beneficiary made under the penalty of perjury stating that the
19 beneficiary is the actual holder of the promissory note or other
20 obligation secured by the deed of trust shall be sufficient proof as
21 required under this subsection.

22 (b) Unless the trustee has violated his or her duty under RCW
23 61.24.010(4), the trustee is entitled to rely on the beneficiary's
24 declaration as evidence of proof required under this subsection.

25 (c) This subsection (7) does not apply to association
26 beneficiaries subject to chapter 64.32, 64.34, or 64.38 RCW;

27 (8) That at least thirty days before notice of sale shall be
28 recorded, transmitted or served, written notice of default shall be
29 transmitted by the beneficiary or trustee to the borrower and grantor
30 at their last known addresses by both first-class and either
31 registered or certified mail, return receipt requested, and the
32 beneficiary or trustee shall cause to be posted in a conspicuous
33 place on the premises, a copy of the notice, or personally served on
34 the borrower and grantor. This notice shall contain the following
35 information:

36 (a) A description of the property which is then subject to the
37 deed of trust;

38 (b) A statement identifying each county in which the deed of
39 trust is recorded and the document number given to the deed of trust
40 upon recording by each county auditor or recording officer;

1 (c) A statement that the beneficiary has declared the borrower or
2 grantor to be in default, and a concise statement of the default
3 alleged;

4 (d) An itemized account of the amount or amounts in arrears if
5 the default alleged is failure to make payments;

6 (e) An itemized account of all other specific charges, costs, or
7 fees that the borrower, grantor, or any guarantor is or may be
8 obliged to pay to reinstate the deed of trust before the recording of
9 the notice of sale;

10 (f) A statement showing the total of (d) and (e) of this
11 subsection, designated clearly and conspicuously as the amount
12 necessary to reinstate the note and deed of trust before the
13 recording of the notice of sale;

14 (g) A statement that failure to cure the alleged default within
15 thirty days of the date of mailing of the notice, or if personally
16 served, within thirty days of the date of personal service thereof,
17 may lead to recordation, transmittal, and publication of a notice of
18 sale, and that the property described in (a) of this subsection may
19 be sold at public auction at a date no less than one hundred twenty
20 days in the future, or no less than one hundred fifty days in the
21 future if the borrower received a letter under RCW 61.24.031;

22 (h) A statement that the effect of the recordation, transmittal,
23 and publication of a notice of sale will be to (i) increase the costs
24 and fees and (ii) publicize the default and advertise the grantor's
25 property for sale;

26 (i) A statement that the effect of the sale of the grantor's
27 property by the trustee will be to deprive the grantor of all their
28 interest in the property described in (a) of this subsection;

29 (j) A statement that the borrower, grantor, and any guarantor has
30 recourse to the courts pursuant to RCW 61.24.130 to contest the
31 alleged default on any proper ground;

32 (k) In the event the property secured by the deed of trust is
33 owner-occupied residential real property, a statement, prominently
34 set out at the beginning of the notice, which shall state as follows:

35 **"THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR**
36 **LOSING YOUR HOME.**

37 You may be eligible for mediation in front of a neutral third party
38 to help save your home.

1 **CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW**
2 to assess your situation and refer you to mediation if you might
3 benefit. Mediation **MUST** be requested between the time you receive the
4 Notice of Default and no later than twenty days after the Notice of
5 Trustee Sale is recorded.

6 **DO NOT DELAY.** If you do nothing, a notice of sale may be issued as
7 soon as 30 days from the date of this notice of default. The notice
8 of sale will provide a minimum of 120 days' notice of the date of the
9 actual foreclosure sale.

10 **BE CAREFUL** of people who claim they can help you. There are many
11 individuals and businesses that prey upon borrowers in distress.

12 **REFER TO THE CONTACTS BELOW** for sources of assistance.

13 **SEEKING ASSISTANCE**

14 Housing counselors and legal assistance may be available at little or
15 no cost to you. If you would like assistance in determining your
16 rights and opportunities to keep your house, you may contact the
17 following:

18 The statewide foreclosure hotline for assistance and referral to
19 housing counselors recommended by the Housing Finance Commission

20 Telephone: Web site:

21 The United States Department of Housing and Urban Development

22 Telephone: Web site:

23 The statewide civil legal aid hotline for assistance and referrals to
24 other housing counselors and attorneys

25 Telephone: Web site:"

26 The beneficiary or trustee shall obtain the toll-free numbers and
27 web site information from the department for inclusion in the notice;
28 and

29 (1) In the event the property secured by the deed of trust is
30 residential real property, the name and address of the owner of any
31 promissory notes or other obligations secured by the deed of trust
32 and the name, address, and telephone number of a party acting as a
33 servicer of the obligations secured by the deed of trust; and

34 (9) That, for owner-occupied residential real property, before
35 the notice of the trustee's sale is recorded, transmitted, or served,
36 the beneficiary has complied with RCW 61.24.031 and, if applicable,
37 RCW 61.24.163."

ADOPTED 03/08/2017

1 On page 1, line 2 of the title, after "foreclosure;" strike the
2 remainder of the title and insert "amending RCW 61.24.173, 61.24.040,
3 and 61.24.030; and adding new sections to chapter 61.24 RCW."

EFFECT: Clarifies that permission from the borrower to the servicer to enter the premises to secure and maintain the property occurs after default. Amends the definition of "reasonable cause to believe that the property is abandoned" in the section pertaining to external maintenance. Amends the section regarding certificate of abandonment to provide that the signs of abandonment must be visible from the exterior, and property must be unprotected or in reasonable danger of damage. Provides that a servicer's duty with respect to property preservation entities encompasses a duty to monitor but not supervise, and further provides that the background check requirements pertain to employees engaged in on-site property preservation and not all employees of the property preservation entity. Includes a new section pertaining to a servicer's ongoing duty to maintain a property after obtaining the borrower's permission, a court order, or a certificate of abandonment. Includes a new section pertaining to the duty of a servicer to maintain vacant property.

--- END ---