AN ACT Relating to foreclosure; amending RCW 61.24.010, 61.24.030, 61.24.110, and 61.24.130; adding a new chapter to Title 18 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Applicant" means a person that files an application for registration under this chapter, including the applicant's sole proprietor, owners, directors, officers, partners, members, and controlling persons.

(2) "Department" means the department of financial institutions.

(3) "Director" means the director of financial institutions or his or her duly authorized representative.

(4) "Person" means a natural person, firm, association, partnership, corporation, or limited liability company, whether resident, nonresident, citizen, or not.

(5) "Physical location" means a place where a trustee can accept and process payments.
"Trustee" includes a successor trustee and has the same meaning as provided in RCW 61.24.005.

NEW SECTION. Sec. 2. It is unlawful for any person to engage in the business of a trustee by performing any functions of a trustee within this state or with respect to transactions that involve real property located in this state unless the person possesses a valid registration issued by the director under this chapter. Registration requirements under this chapter do not apply to:

(1) Any person doing business under the laws of this state or the United States relating to banks, mutual savings banks, savings and loan associations, credit unions, insurance companies, or any federally approved agency or lending institution under the national housing act (12 U.S.C. Sec. 1703); or

(2) Any person licensed to practice law in this state if:
   (a) All trustee transactions are performed by the attorney while engaged in the practice of law, or by employees of the law practice under the direct supervision of the attorney while engaged in the practice of law;
   (b) All trustee transactions are performed under a legal entity publicly identified and operated as a law practice; and
   (c) All trustee funds are deposited to, maintained in, and disbursed from a trust account in compliance with rules enacted by the Washington state supreme court regulating the conduct of attorneys.

NEW SECTION. Sec. 3. An application for a trustee registration must be in writing on a form as prescribed by the director, and must be verified under oath by the applicant. An application for trustee registration must include the following:

(1) The applicant's form of business organization and place of organization;

(2) The applicant's unified business identifier number;

(3) Information concerning the identity of the applicant, and its officers, directors, owners, partners, controlling persons, and employees, including: Fingerprints for submission to the Washington state patrol, the federal bureau of investigation, and any government agency or subdivision authorized to receive information for state and national criminal history background checks; personal history;
experience; business record; purposes; and other pertinent facts, as the director may reasonably require. The director may also request criminal history record information, including nonconviction data, as defined in RCW 10.97.030. The department may disseminate nonconviction data obtained under this section only to criminal justice agencies. The applicant must pay the cost of fingerprinting and processing the fingerprints by the department;

(4) If the applicant is a corporation or limited liability company, the address of its physical location, a list of officers, controlling persons, and directors of such corporation or company and their residential addresses, telephone numbers, e-mail addresses, and other identifying information as the director may determine by rule. If the applicant is a sole proprietorship or partnership, the address of its business location, a list of owners, partners, or controlling persons and their residential addresses, telephone numbers, e-mail addresses, and other identifying information as the director may determine by rule. Any information in the application regarding the personal residential address or telephone number of any officer, director, partner, owner, controlling person, or employee is exempt from the public records disclosure requirements of chapter 42.56 RCW;

(5) If the applicant is doing business under an assumed name, a copy of the master business license with the registered trade name shown;

(6) The qualifications and business history of the applicant and all of its officers, directors, owners, partners, and controlling persons;

(7) A personal credit report from a recognized credit reporting bureau satisfactory to the director on all officers, directors, owners, partners, and controlling persons of the applicant;

(8) Whether any of the officers, directors, owners, partners, or controlling persons have been convicted of any crime within the preceding ten years that relates directly to the business or duties of trustees, or have suffered a judgment within the preceding five years in any civil action involving fraud, misrepresentation, any unfair or deceptive act or practice, or conversion;

(9) Whether the trustee is a wholly owned subsidiary and, if so, the name of the wholly owned subsidiary; and
(10) Any other information the director may require by rule. The director may share any information contained within a registration application, including fingerprints, with the federal bureau of investigation and other regulatory or law enforcement agencies.

NEW SECTION. Sec. 4. A trustee must provide notice in writing to the director of any change of business location or business name. The notice must be given in a form prescribed by the director and be delivered at least ten business days prior to the change in business location or name.

NEW SECTION. Sec. 5. Unless otherwise exempt, to qualify as a registered trustee of a deed of trust under this chapter, a trustee must meet the same requirements as provided in RCW 61.24.010.

NEW SECTION. Sec. 6. Every trustee registration issued under this chapter expires on the date one year from the date of issue, which must also be the renewal date of the registration. If the application for a registration renewal is not received by the director on or before the renewal date, the registration is expired and any activity conducted is unregistered activity in violation of this chapter. The registration may be reinstated at any time prior to sixty days after renewal upon payment to the director of the annual renewal fee. Acceptance by the director of an application for renewal after the renewal date is not a waiver of delinquency. A registration not renewed within sixty days after the renewal date must be canceled. A new registration may be obtained by satisfying the procedures and qualifications for initial registration.

NEW SECTION. Sec. 7. Upon the filing of the application for a trustee registration on a form provided by the director and satisfying the requirements as set forth in this chapter, the director must issue and deliver to the applicant a registration to engage in the business of a trustee at the location set forth in the registration.

NEW SECTION. Sec. 8. Each trustee registration must be issued in the form and size prescribed by the director and state, in addition to any other matter required by the director:
The name of the trustee;
(2) The address at which the trustee will do business; and
(3) The expiration date of the registration.

NEW SECTION. Sec. 9. (1) The director must charge and collect the following fees:
(a) A fee for filing an original or a renewal application for a trustee registration, a fee for an application for a change of address for a trustee, and annual fees for the first office or location and for each additional office or location. Subject to RCW 43.135.055, the director shall set the annual fee for a trustee registration by rule in fiscal year 2013.
(b) A fee for filing an application for a duplicate of a trustee registration or of a trustee registration lost, stolen, or destroyed, or for replacement.
(c) If triggered by a complaint, an hourly audit fee. In setting the hourly audit fee, the director must ensure that every examination and audit, or any part of the examination or audit, of any person registered or subject to registration in this state requiring travel and services outside this state by the director or by employees designated by the director is at the expense of the person examined or audited at the hourly rate established by the director, plus the per diem compensation and actual travel expenses incurred by the director or his or her employees conducting the examination or audit. When conducting any examination or audit under this chapter, the director may retain attorneys, appraisers, independent certified public accountants, or other professionals and specialists as examiners or auditors, the cost of which must be borne by the person who is the subject of the examination or audit.
(2) In establishing the fees under this section, the director must set the fees at a sufficient level to defray the costs of administering this chapter.
(3) All fees received by the director under this chapter must be paid into the state treasury to the credit of the financial services regulation fund.

NEW SECTION. Sec. 10. A trustee's registration remains in effect
until surrendered, revoked, or suspended, or until it expires, and, at all times, must be kept conspicuously posted in the trustee's place of business.

**NEW SECTION. Sec. 11.** Annually, by December 31st, a trustee must provide the director with the number of notice of trustee sales filed, including the name of the beneficiary for each sale.

**NEW SECTION. Sec. 12.** Any person required under this chapter to register who engages in business as a trustee without applying for and receiving the registration required under this chapter, or willfully continues to act as a trustee after the surrender, expiration, suspension, or revocation of his or her registration, is guilty of a misdemeanor punishable by imprisonment for not more than ninety days or by a fine of not more than one hundred dollars per day for each day's violation, or by both the fine and imprisonment.

**NEW SECTION. Sec. 13.** The proceedings for, appeal of, or review of the revocation, suspension, or refusal to renew or accept an application for renewal of a trustee's registration is governed under chapter 34.05 RCW.

**NEW SECTION. Sec. 14.** It is a violation of this chapter for any trustee to:

1. Directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person;
2. Directly or indirectly engage in any unfair or deceptive practice toward any person;
3. Directly or indirectly obtain property by fraud or misrepresentation;
4. Knowingly make, publish, or disseminate any false, deceptive, or misleading information in the conduct of or relative to the business of a trustee;
5. Knowingly make or publish, or concur in making or publishing, any written report, exhibit, or statement of its affairs or pecuniary condition containing any material statement that is false, or omit or concur in omitting any statement required by law to be contained in the written report, exhibit, or statement;
(6) Fail to disclose in a timely manner to the trustee's sole proprietor, owners, directors, officers, partners, members, or controlling persons the receipt of service of a notice of an application for an injunction or other legal process affecting the property or business of the trustee, including an order to cease and desist or other order of the director;

(7) Fail to make any report or statement lawfully required by the director or other public official; or

(8) Fail to comply with all applicable state and federal statutes relating to the activities governed under this chapter.

NEW SECTION. Sec. 15. (1) The director may administer and interpret this chapter to facilitate the delivery of services to citizens of this state by trustees subject to this chapter.

(2) The director may adopt rules to govern the activities of registered trustees. The director must enforce all laws and rules relating to the registration of trustees. The director may hold hearings and suspend or revoke the registrations of violators and may deny, suspend, or revoke the authority of a trustee who commits a violation of this chapter or the rules under this chapter.

(3) Except as otherwise provided in this chapter, any rules adopted and any hearings conducted must be in accordance with chapter 34.05 RCW.

NEW SECTION. Sec. 16. The director may engage in the informal settlement of complaints or enforcement actions including, but not limited to, payment to the department for purposes of financial literacy and education programs authorized under RCW 43.320.150.

NEW SECTION. Sec. 17. (1) The director may, upon a consumer complaint:

(a) Make necessary public or private investigations within or outside of this state to determine whether any person has violated or is about to violate this chapter, or any rule or order under this chapter, or to aid in the enforcement of this chapter or in the prescribing of rules and forms under this chapter; or

(b) Require or permit any person to file a statement in writing,
under oath or otherwise as the director determines, as to all facts and circumstances concerning the matter to be investigated.

(2) For the purpose of any investigation or proceeding under this chapter, the director may administer oaths or affirmations and, upon his or her own motion or upon request of any party, may subpoena witnesses, compel their attendance, take evidence, and require the production of any matter that is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge or relevant facts, or any other matter reasonably calculated to lead to the discovery of material evidence.

(3) Upon failure to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected, the director may apply to the superior court for an order compelling compliance.

(4) Except as otherwise provided in this chapter, all proceedings under this chapter must be in accordance with chapter 34.05 RCW.

NEW SECTION. Sec. 18. (1) The director may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, in the county where the subpoenaed documents, records, or evidence are located, or in Thurston county. The application must:

(a) State that an order is sought under this section;
(b) Adequately specify the documents, records, evidence, or testimony; and
(c) Include a declaration made under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents, records, evidence, or testimony are reasonably related to an investigation within the department's authority.

(2) When an application under this section is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the agency to subpoena the documents, records, evidence, or testimony.
(3) The director may seek approval and a court may issue an order under this section without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation. An application for court approval is subject to the fee and process set forth in RCW 36.18.012(3).

NEW SECTION. Sec. 19. (1) The director may, upon notice to the trustee, deny, suspend, decline to renew, or revoke the registration of any trustee if the director finds that the trustee has committed any of the following acts or engaged in any of the following conduct:

(a) Obtaining a registration by means of fraud, misrepresentation, concealment, or through the mistake or inadvertence of the director;

(b) Violating any of the provisions of this chapter or chapter 61.24 RCW, or any lawful rules adopted by the director pursuant to this chapter or chapter 61.24 RCW;

(c) Committing a crime against the laws of this or any other state or government involving moral turpitude or dishonest dealings;

(d) Knowingly committing or being a party to any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person lawfully relying upon the word, representation, or conduct of the trustee or agent or any partner, officer, director, controlling person, or employee acts to his or her injury or damage;

(e) Converting any money, contract, deed, note, mortgage, or abstract or other evidence of title to his or her own use or to the use of his or her principal or of any other person, when delivered to him or her in trust or on condition, in violation of the trust or before the happening of the condition. The failure to return any money or contract, deed, note, mortgage, abstract, or other evidence of title within thirty days after the owner of the money, contract, deed, note, mortgage, abstract, or other evidence of title is entitled to, and demands the money, contract, deed, note, mortgage, abstract, or other evidence of title, is prima facie evidence of such conversion;

(f) Failing, upon demand, to disclose any information within the trustee's knowledge to, or to produce any document, book, or record in the trustee's possession for inspection by, the director;

(g) Committing any act of fraudulent or dishonest dealing. A
certified copy of the final holding of any court of competent jurisdiction in the matter is conclusive evidence in any hearing under this chapter; or

(h) Committing acts or engaging in conduct that demonstrates the trustee to be incompetent or untrustworthy or a source of injury and loss to the public.

(2) Any conduct of a trustee that constitutes grounds for enforcement action under this chapter is sufficient regardless of whether the conduct took place within or outside of the state of Washington.

(3) In addition to or in lieu of a registration suspension, revocation, or denial, the director may assess a fine of up to one hundred dollars per day for each violation of this chapter or rules adopted under this chapter and may remove or prohibit from participation in the conduct of the affairs of any registered trustee.

(4) In addition to or in lieu of (a) a registration suspension, revocation, or denial, or (b) fines payable to the department, the director may order a trustee who violates this chapter to make restitution to an injured consumer.

NEW SECTION. Sec. 20. (1) If the director determines after notice and hearing that a person has: (a) Violated any provision of this chapter; (b) directly, or through an agent or employee, engaged in any false, unfair and deceptive, or misleading: (i) Advertising or promotional activity; or (ii) business practices; or (c) violated any lawful order or rule of the director, the director may issue an order requiring the person to cease and desist from the unlawful practice and to take affirmative action that, in the judgment of the director, will carry out the purposes of this chapter.

(2) If the director makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, the director may issue a temporary cease and desist order. Every temporary cease and desist order must include in its terms a provision that upon request a hearing will be held to determine whether or not the order becomes permanent.

NEW SECTION. Sec. 21. (1) The director, through the attorney
general, may prosecute an action in any court of competent jurisdiction
to enforce any order made by him or her pursuant to this chapter and is
not required to post a bond in any such court proceedings.

(2) If the director has cause to believe that any person has
violated any penal provision of this chapter, he or she may refer the
violation to the attorney general or the prosecuting attorney of the
county in which the offense was committed.

(3) Whenever the director has cause to believe that any person,
required to be registered under this chapter, is conducting business as
a trustee without a valid registration, is engaged in any false, unfair
and deceptive, or misleading advertising or promotional, activity, or
business practices, is conducting business in a manner deemed unsafe or
injurious to the public, or has violated, is violating, or is about to
violate any of the provisions of this chapter or a rule or order under
this chapter, the director, through the attorney general, may bring an
action in any court of competent jurisdiction to enjoin the person from
continuing the violation or doing any action in furtherance of the
violation. Upon proper showing, injunctive relief or temporary
restraining orders must be granted by the court and a receiver or
conservator may be appointed.

(4) The attorney general and the several prosecuting attorneys
throughout the state may prosecute proceedings brought pursuant to this
chapter upon notification to the director.

NEW SECTION. Sec. 22. The legislature finds that the practices
covered by this chapter are matters vitally affecting the public
interest for the purpose of applying the consumer protection act,
chapter 19.86 RCW. A violation of this chapter 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.

Sec. 23. RCW 61.24.010 and 2012 c 185 s 13 are each amended to
read as follows:

(1) The trustee of a deed of trust under this chapter shall be:
(a) Any domestic corporation or domestic limited liability
corporation incorporated under Title 23B, 25, 30, 31, 32, or 33 RCW of which at least one officer is a Washington resident; or

(b) Any title insurance company authorized to insure title to real property under the laws of this state, or any title insurance agent licensed under chapter 48.17 RCW; or

(c) Any attorney who is an active member of the Washington state bar association at the time the attorney is named trustee; or

(d) Any professional corporation incorporated under chapter 18.100 RCW, any professional limited liability company formed under chapter 25.15 RCW, any general partnership, including limited liability partnerships, formed under chapter 25.04 RCW, all of whose shareholders, members, or partners, respectively, are either licensed attorneys or entities, provided all of the owners of those entities are licensed attorneys, or any domestic corporation wholly owned by any of the entities under this subsection (1)(d); or

(e) Any agency or instrumentality of the United States government; or

(f) Any national bank, savings bank, or savings and loan association chartered under the laws of the United States.

(2) The trustee may resign at its own election or be replaced by the beneficiary. The trustee shall give prompt written notice of its resignation to the beneficiary. The resignation of the trustee shall become effective upon the recording of the notice of resignation in each county in which the deed of trust is recorded. If a trustee is not appointed in the deed of trust, or upon the resignation, incapacity, disability, absence, or death of the trustee, or the election of the beneficiary to replace the trustee, the beneficiary shall appoint a trustee or a successor trustee. Only upon recording the appointment of a successor trustee in each county in which the deed of trust is recorded, the successor trustee shall be vested with all powers of an original trustee.

(3) The trustee or successor trustee shall have no fiduciary duty or fiduciary obligation to the grantor or other persons having an interest in the property subject to the deed of trust.

(4) The trustee or successor trustee has a duty of good faith to the borrower, beneficiary, and grantor.

(5) Unless otherwise exempt, the trustee or successor trustee must
be registered under chapter 18.--- RCW (the new chapter created in section 27 of this act).

Sec. 24. RCW 61.24.030 and 2012 c 185 s 9 are each amended to read as follows:

It shall be requisite to a trustee's sale:

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

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

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

(4) That no action commenced by the beneficiary of the deed of trust is now pending to seek satisfaction of an obligation secured by the deed of trust in any court by reason of the grantor's default on the obligation secured: PROVIDED, That (a) the seeking of the appointment of a receiver shall not constitute an action for purposes of this chapter; and (b) if a receiver is appointed, the grantor shall be entitled to any rents or profits derived from property subject to a homestead as defined in RCW 6.13.010. If the deed of trust was granted to secure a commercial loan, this subsection shall not apply to actions brought to enforce any other lien or security interest granted to secure the obligation secured by the deed of trust being foreclosed;

(5) That the deed of trust and the most recent assignment of the beneficial interest, if any, has been executed by the current owner of the beneficial interest and recorded in each county in which the land or some part thereof is situated;

(6) That prior to the date of the notice of trustee's sale and continuing thereafter through the date of the trustee's sale, the trustee must maintain a street address in this state where personal service of process may be made, and the trustee must maintain a physical presence and have telephone service at such address;
(7) (a) That, for residential real property, before the notice of trustee's sale is recorded, transmitted, or served, the trustee shall have proof that the beneficiary is the owner of any promissory note or other obligation secured by the deed of trust. A declaration by the beneficiary made under the penalty of perjury stating that the beneficiary is the actual holder of the promissory note or other obligation secured by the deed of trust shall be sufficient proof as required under this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DO NOT DELAY. If you do nothing, a notice of sale may be issued as
soon as 30 days from the date of this notice of default. The notice of
sale will provide a minimum of 120 days' notice of the date of the
actual foreclosure sale.
BE CAREFUL of people who claim they can help you. There are many individuals and businesses that prey upon borrowers in distress.

REFER TO THE CONTACTS BELOW for sources of assistance.

SEEKING ASSISTANCE

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

The statewide foreclosure hotline for assistance and referral to housing counselors recommended by the Housing Finance Commission
Telephone: ... ... ... ... Web site: ... ... ... ... 

The United States Department of Housing and Urban Development
Telephone: ... ... ... ... Web site: ... ... ... ... 

The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys
Telephone: ... ... ... ... Web site: ... ... ... ...

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

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

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

Sec. 25. RCW 61.24.110 and 1998 c 295 s 13 are each amended to read as follows:

(1) The trustee of record shall reconvey all or any part of the property encumbered by the deed of trust to the person entitled thereto on written request of the beneficiary, or upon satisfaction of the obligation secured and written request for reconveyance made by the beneficiary or the person entitled thereto.
(2) If the beneficiary fails to request reconveyance within the sixty-day period specified under RCW 61.16.030 and has received payment as specified by the beneficiary's demand statement, a title insurance company or title insurance agent as licensed and qualified under chapter 48.29 RCW, a licensed escrow agent as defined in RCW 18.44.011, or an attorney admitted to practice law in this state, who has paid the demand in full from escrow, upon receipt of notice of the beneficiary's failure to request reconveyance, may, as agent for the person entitled to receive reconveyance, in writing, submit proof of satisfaction and request the trustee of record to reconvey the property encumbered by the deed of trust.

(3)(a) If the trustee of record is unable or unwilling to reconvey the property encumbered by the deed of trust within one hundred twenty days following payment to the beneficiary as prescribed in the beneficiary's demand statement, a title insurance company or title insurance agent as licensed and qualified under chapter 48.29 RCW, a licensed escrow agent as defined in RCW 18.44.011, or an attorney admitted to practice law in this state representing a party making a payment may record with each county auditor where the original deed of trust was recorded a notarized declaration of payment. The notarized declaration must: (i) Identify the deed of trust, including the original grantor, beneficiary, trustee, loan number if available, and the auditor's recording number and recording date; (ii) state the amount, date, and name of the beneficiary and means of payment; and (iii) include a declaration that the payment tendered was sufficient to meet the beneficiary's demand and that no written objections have been received.

(b) A copy of the recorded declaration of payment must be sent by certified mail to the last known address of the beneficiary and the trustee of record not later than two business days following the date of recording of the notarized declaration. The beneficiary or trustee of record has fifteen days from the date of recording of the notarized declaration to record an objection, including reference to the recording number of the declaration and original deed of trust, in the records where the notarized declaration was recorded. A copy of any objection filed by the beneficiary or the trustee of record must also be provided to the party who records the notarized declaration of payment.
If no objection is filed within fifteen days following the recording of the notarized declaration, any lien of the deed of trust against the real property encumbered is extinguished.

Sec. 26. RCW 61.24.130 and 2008 c 153 s 5 are each amended to read as follows:

(1) Nothing contained in this chapter shall prejudice the right of the borrower, grantor, any guarantor, or any person who has an interest in, lien, or claim of lien against the property or some part thereof, to restrain, on any proper legal or equitable ground, a trustee's sale. The court shall require as a condition of granting the restraining order or injunction that the applicant pay to the clerk of the court the sums that would be due on the obligation secured by the deed of trust if the deed of trust was not being foreclosed:

(a) In the case of default in making the periodic payment of principal, interest, and reserves, such sums shall be the periodic payment of principal, interest, and reserves paid to the clerk of the court every thirty days.

(b) In the case of default in making payment of an obligation then fully payable by its terms, such sums shall be the amount of interest accruing monthly on said obligation at the nondefault rate, paid to the clerk of the court every thirty days.

In the case of default in performance of any nonmonetary obligation secured by the deed of trust, the court shall impose such conditions as it deems just.

In addition, the court may condition granting the restraining order or injunction upon the giving of security by the applicant, in such form and amount as the court deems proper, for the payment of such costs and damages, including attorneys' fees, as may be later found by the court to have been incurred or suffered by any party by reason of the restraining order or injunction. The court may consider, upon proper showing, the grantor's equity in the property in determining the amount of said security.

(2) No court may grant a restraining order or injunction to restrain a trustee's sale unless the person seeking the restraint gives reasonable notice to the trustee of the time when, place where, and the judge before whom the application for the restraining order or injunction is to be made. This notice shall include copies of
all pleadings and related documents to be given to the judge. No judge
may act upon such application unless it is accompanied by proof,
evidenced by return of a sheriff, the sheriff's deputy, or by any
person eighteen years of age or over who is competent to be a witness,
that the notice has been served on the trustee.

(3) If the restraining order or injunction is dissolved after the
date of the trustee's sale set forth in the notice as provided in RCW
61.24.040(1)(f), the court granting such restraining order or
injunction, or before whom the order or injunction is returnable,
shall, at the request of the trustee, set a new sale date which shall
be not less than forty-five days from the date of the order dissolving
the restraining order. The trustee shall:

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

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

(4) If a trustee's sale has been stayed as a result of the filing
of a petition in federal bankruptcy court and an order is entered in
federal bankruptcy court granting relief from the stay or closing or
dismissing the case, or discharging the debtor with the effect of
removing the stay, the trustee may set a new sale date which shall not
be less than forty-five days after the date of the bankruptcy court's
order. The trustee shall:

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

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

(5) Subsections (3) and (4) of this section are permissive only and
do not prohibit the trustee from proceeding with a trustee's sale
following termination of any injunction or stay on any date to which
such sale has been properly continued in accordance with RCW
61.24.040(6).
(6) The issuance of a restraining order or injunction shall not prohibit the trustee from continuing the sale as provided in RCW 61.24.040(6).

NEW SECTION. Sec. 27. Sections 1 through 22 of this act constitute a new chapter in Title 18 RCW.

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