
SUBSTITUTE HOUSE BILL 1108

State of Washington

67th Legislature

2021 Regular Session

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

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

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

6 NEW SECTION. **Sec. 1.** The legislature finds that whether
7 mediation, reporting, and payment provisions of the foreclosure
8 fairness act apply to any particular beneficiary in a given year is
9 tied to the number of trustee's sales and number of notices of
10 trustee's sale recorded in the preceding year. The legislature
11 further finds that, due to the federal foreclosure moratorium in
12 place from at least March of 2020 through December of 2020 and into
13 the year 2021, it is likely that, absent legislative action, the
14 mediation, reporting, and payment provisions of the foreclosure
15 fairness act will apply to very few if any beneficiaries in calendar
16 year 2021 or 2022 because the threshold numbers that trigger
17 application of these provisions will not be met. The legislature
18 therefore intends to put in place a temporary stopgap remedy so that
19 vital assistance provisions of the foreclosure fairness act are not
20 lost at the very time that foreclosure activity is likely to be
21 increasing.

1 **Sec. 2.** RCW 61.24.166 and 2011 c 58 s 9 are each amended to read
2 as follows:

3 ~~((The))~~ (1) Except as provided in subsection (2) of this section,
4 the provisions of RCW 61.24.163 do not apply to any federally insured
5 depository institution, as defined in 12 U.S.C. Sec. 461(b)(1)(A),
6 that certifies to the department under penalty of perjury that it was
7 not a beneficiary of deeds of trust in more than ~~((two hundred~~
8 ~~fifty))~~ 250 trustee sales of owner-occupied residential real property
9 that occurred in this state during the preceding calendar year. A
10 federally insured depository institution certifying that RCW
11 61.24.163 does not apply must do so annually, beginning no later than
12 ~~((thirty))~~ 30 days after July 22, 2011, and no later than January
13 31st of each year thereafter.

14 (2)(a) During the 2021 calendar year, the provisions of RCW
15 61.24.163 do not apply to any federally insured depository
16 institution, as defined in 12 U.S.C. Sec. 461(b)(1)(A), that
17 certifies to the department under penalty of perjury that it was not
18 a beneficiary of deeds of trust in more than 250 trustee sales of
19 owner-occupied residential real property that occurred in this state
20 during 2019. A federally insured depository institution certifying
21 that RCW 61.24.163 does not apply pursuant to this subsection must do
22 so no later than 30 days after the effective date of this section.

23 (b) During the 2022 calendar year, the provisions of RCW
24 61.24.163 do not apply to any federally insured depository
25 institution, as defined in 12 U.S.C. Sec. 461(b)(1)(A), that
26 certifies to the department under penalty of perjury that it was not
27 a beneficiary of deeds of trust in more than 250 trustee sales of
28 owner-occupied residential property that occurred in this state
29 during 2019. A federally insured depository institution certifying
30 that RCW 61.24.163 does not apply pursuant to this subsection must do
31 so no later than January 31, 2022.

32 **Sec. 3.** RCW 61.24.173 and 2018 c 306 s 7 are each amended to
33 read as follows:

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

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

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

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

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

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

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

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

36 (b) During the 2021 and 2022 calendar years, this section does
37 not apply to any beneficiary or loan servicer that is a federally
38 insured depository institution, as defined in 12 U.S.C. Sec.
39 461(b)(1)(A), and that certifies under penalty of perjury that fewer

1 than 50 notices of trustee's sale were recorded on its behalf in
2 2019.

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

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

8 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
9 preservation of the public peace, health, or safety, or support of
10 the state government and its existing public institutions, and takes
11 effect immediately.

12 NEW SECTION. **Sec. 5.** This act expires December 31, 2022.

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