

---

**HOUSE BILL 1637**

---

**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Representative Orwall

1 AN ACT Relating to prohibiting excessive fees or other charges  
2 for locating or recovering foreclosure surplus funds and other  
3 unclaimed property; amending RCW 61.24.135; adding a new section to  
4 chapter 61.12 RCW; adding a new section to chapter 63.30 RCW; and  
5 prescribing penalties.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 61.12  
8 RCW to read as follows:

9 (1) It is unlawful for any person to seek or receive from any  
10 person or contract with any person for any fee or compensation for  
11 locating, or purporting to purchase or otherwise acquire the right to  
12 recover, funds held by a court or county that are proceeds from a  
13 foreclosure under this chapter and subject to disposition under RCW  
14 61.12.150 in excess of:

15 (a) Five percent of the value thereof returned to such owner; and  
16 (b) Reasonable attorneys' fees and costs, upon a motion and a  
17 hearing by a court of competent jurisdiction.

18 (2) Any person who violates this section is guilty of a  
19 misdemeanor and shall be fined not less than the amount of the fee or  
20 charge he or she has sought or received or contracted for, and not

1 more than 10 times such amount, or imprisoned for not more than 30  
2 days, or both.

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

12 (4) Every contract for any fee or compensation for locating or  
13 purporting to purchase the right to recover funds held by a court  
14 that are proceeds from a foreclosure under this chapter and subject  
15 to disposition under RCW 61.12.150 must contain the following notice  
16 in 10-point boldface type or larger directly above the space reserved  
17 in the contract for the signature of the buyer:

18 "NOTICE TO HOMEOWNER:

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

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

23 (3) You may cancel this contract within 10 days of signing by  
24 sending notice of cancellation by regular United States mail to the  
25 other party at his or her address shown on the contract, which notice  
26 shall be posted not later than midnight of the 10th day (excluding  
27 Sundays and holidays) following your signing of the contract."

28 **Sec. 2.** RCW 61.24.135 and 2021 c 151 s 5 are each amended to  
29 read as follows:

30 (1) It is an unfair or deceptive act or practice under the  
31 consumer protection act, chapter 19.86 RCW, for any person, acting  
32 alone or in concert with others, to offer, or offer to accept or  
33 accept from another, any consideration of any type not to bid, or to  
34 reduce a bid, at a sale of property conducted pursuant to a power of  
35 sale in a deed of trust. The trustee may decline to complete a sale  
36 or deliver the trustee's deed and refund the purchase price, if it  
37 appears that the bidding has been collusive or defective, or that the  
38 sale might have been void. However, it is not an unfair or deceptive  
39 act or practice for any person, including a trustee, to state that a

1 property subject to a recorded notice of trustee's sale or subject to  
2 a sale conducted pursuant to this chapter is being sold in an "as-is"  
3 condition, or for the beneficiary to arrange to provide financing for  
4 a particular bidder or to reach any good faith agreement with the  
5 borrower, grantor, any guarantor, or any junior lienholder.

6 (2) It is an unfair or deceptive act in trade or commerce and an  
7 unfair method of competition in violation of the consumer protection  
8 act, chapter 19.86 RCW, for any person or entity to: (a) Violate the  
9 duty of good faith under RCW 61.24.163; (b) fail to comply with the  
10 requirements of RCW 61.24.174, as it existed prior to July 1, 2016,  
11 61.24.173, or 61.24.190; or (c) fail to initiate contact with a  
12 borrower and exercise due diligence as required under RCW 61.24.031.

13 (3) (a) It is unlawful for any person to seek or receive from any  
14 person or contract with any person for any fee or compensation for  
15 locating, or purporting to purchase or otherwise acquire the right to  
16 recover, funds held by a court or county that are proceeds from a  
17 foreclosure under this chapter and subject to disposition under RCW  
18 61.24.080 in excess of:

19 (i) Five percent of the value thereof returned to such owner; and  
20 (ii) Reasonable attorneys' fees and costs, upon a motion and a  
21 hearing by a court of competent jurisdiction.

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

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

36 (4) Every contract for any fee or compensation for locating or  
37 purporting to purchase the right to recover funds held by a court  
38 that are proceeds from a foreclosure under this chapter and subject  
39 to disposition under RCW 61.24.080 must contain the following notice

1 in 10-point boldface type or larger directly above the space reserved  
2 in the contract for the signature of the buyer:

3 "NOTICE TO HOMEOWNER:

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

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

8 (3) You may cancel this contract within 10 days of signing by  
9 sending notice of cancellation by regular United States mail to the  
10 other party at his or her address shown on the contract, which notice  
11 shall be posted not later than midnight of the 10th day (excluding  
12 Sundays and holidays) following your signing of the contract."

13 NEW SECTION. Sec. 3. A new section is added to chapter 63.30  
14 RCW to read as follows:

15 (1) It is unlawful for any person to seek or receive from any  
16 person or contract with any person for any fee or compensation for  
17 locating or purporting to locate any property which he or she knows  
18 has been reported or paid or delivered to the department of revenue  
19 pursuant to this chapter, or funds held by a court or county, that  
20 are proceeds from a foreclosure for delinquent property taxes,  
21 assessments, or other liens, or, funds that are otherwise held by a  
22 county because of a person's failure to claim funds held as  
23 reimbursement for unowed taxes, fees, or other government charges, in  
24 excess of five percent of the value thereof returned to such owner.

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

30 (3) The legislature finds that the practices covered by this  
31 section are matters vitally affecting the public interest for the  
32 purpose of applying the consumer protection act, chapter 19.86 RCW.  
33 Any violation of this section is not reasonable in relation to the  
34 development and preservation of business and is an unfair or  
35 deceptive act in trade or commerce and an unfair method of  
36 competition for the purpose of applying the consumer protection act,  
37 chapter 19.86 RCW. Remedies provided by chapter 19.86 RCW are  
38 cumulative and not exclusive.

1           (4) This section applies retroactively to January 1, 2023, and  
2 prospectively beginning with the effective date of this section.

--- **END** ---