

which he resides, from the time he leaves his place of residence until he returns thereto, said expense to be paid by the county to which he travels. If one trip includes two or more counties, the expense may be apportioned between the counties visited in proportion to the amount of time spent in each county on the trip. If an official reporter uses his own automobile for the purpose of such transportation, he shall be paid therefor at the same rate per mile as county officials are paid for use of their private automobiles. The sworn statement of the official reporter, when certified to as correct by the judge presiding, shall be a sufficient voucher upon which the county auditor shall draw his warrant upon the treasurer of the county in favor of the official reporter.

The salaries of official court reporters shall be paid upon sworn statements, when certified as correct by the judge presiding, as state and county officers are paid.

Passed the Senate May 22, 1975.

Passed the House May 19, 1975.

Approved by the Governor May 31, 1975.

Filed in Office of Secretary of State May 31, 1975.

CHAPTER 129

[Engrossed Senate Bill No. 2416]

DEEDS OF TRUST

AN ACT Relating to deeds of trust; amending section 1, chapter 74, Laws of 1965 and RCW 61.24.010; amending section 2, chapter 74, Laws of 1965 and RCW 61.24.020; amending section 3, chapter 74, Laws of 1965 and RCW 61.24.030; amending section 4, chapter 74, Laws of 1965 as amended by section 1, chapter 30, Laws of 1967 and RCW 61.24.040; amending section 9, chapter 74, Laws of 1965 as amended by section 4, chapter 30, Laws of 1967 and RCW 61.24.090; and amending section 13, chapter 74, Laws of 1965 and RCW 61.24.130.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 1, chapter 74, Laws of 1965 and RCW 61.24.010 are each amended to read as follows:

(1) The terms "record" and "recorded" as used in this chapter, shall include the appropriate registration proceedings, in the instance of registered land.

(2) The trustee of a deed of trust under this chapter shall be:

(a) Any corporation or association authorized to engage in a trust business in this state; or

(b) Any title insurance company authorized to insure title to real property under the laws of this state, or its agents; or

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

(d) Any agency of the United States government.

(3) In the event of the death, incapacity or disability, or resignation of the trustee, the beneficiary may nominate in writing a successor trustee. Upon recording in the mortgage records of the county or counties in which the trust deed is recorded, of the appointment of a successor trustee, the successor trustee shall be vested with all powers of the original trustee.

Sec. 2. Section 2, chapter 74, Laws of 1965 and RCW 61.24.020 are each amended to read as follows:

A deed conveying real property to a trustee in trust to secure the performance of an obligation of the grantor or another to the beneficiary may be foreclosed as in this chapter provided. The county auditor shall record such deed as a mortgage and shall index the name of the grantor as mortgagor and the names of the trustee and beneficiary as mortgagee. No person, corporation or association may be both trustee and beneficiary under the same deed of trust ~~((nor may the trustee be an employee, agent or subsidiary of a beneficiary of the same deed of trust))~~; PROVIDED, That any agency of the United States government may be both trustee and beneficiary under the same deed of trust.

Sec. 3. Section 3, chapter 74, Laws of 1965 and RCW 61.24.030 are each amended to read as follows:

It shall be requisite, to foreclosure under this chapter:

(1) That the deed of trust contains a power of sale;
 (2) That the deed of trust provides in its terms that the real property conveyed is not used principally for agricultural or farming purposes;

(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 is pending on an obligation secured by the deed of trust;
 ((and))

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

(6) 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 grantor or any successor in interest at his last known address by both first class and certified mail, return receipt requested, and the beneficiary or trustee shall cause to be posted in a conspicuous place on said premises, a copy of said notice, or personally served on the grantor or his successor in interest. This notice shall contain the following information:

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

(b) The book and the page of the book of records wherein the deed of trust is recorded;

(c) That the beneficiary has declared the grantor or any successor in interest 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 grantor is or may be obliged to pay to reinstate the deed of trust before the recording of the notice of sale;

(f) The total of subparagraphs (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) That failure to cure said 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 subparagraph (a) of this subsection may be sold at public auction at a date no less than one hundred twenty days in the future;

(h) 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) That the effect of the sale of the grantor's property by the trustee will be to deprive the grantor or his successor in interest and all those who hold by, through or under him of all their interest in the property described in subsection (a);

(j) That the grantor or any successor in interest has recourse to the courts to contest the alleged default on any proper ground.

Sec. 4. Section 4, chapter 74, Laws of 1965 as amended by section 1, chapter 30, Laws of 1967 and RCW 61.24.040 are each amended to read as follows:

A deed of trust may be foreclosed in the following manner:

~~(1) ((At least one hundred and twenty days before sale, notice thereof shall be recorded by the trustee in the office of the auditor in each county in which the deed of trust is recorded. At least one hundred twenty days prior to sale copies of the notice shall be transmitted by first class and by certified mail, return receipt requested, to each person who has an interest in or lien or claim of lien against the property or some part thereof, provided such interest, lien or claim is of record at the time the notice is recorded, and provided the address of such person is stated in the recorded instrument evidencing his interest, lien or claim or is otherwise known to the trustee. If a court action to foreclose a lien or other encumbrance on all or any part of the property is pending and a lis pendens in connection therewith is on file on the date the notice is recorded in the office of the auditor pursuant to subdivision (1) of this section, a copy of the notice shall also be transmitted by first class and by certified mail, return receipt requested, to the plaintiff or his attorney of record. The copy of the notice shall be transmitted to the address to which such person shall have in writing requested the trustee to transmit the notice and if there has been no such request, to the address appearing in the recorded instrument evidencing his interest, lien or claim, and if there be neither such request nor record address, to the address otherwise known to the trustee. In addition, at least one hundred twenty days prior to sale, a copy of the notice shall be posted in a conspicuous place on said premises; or in lieu of posting, a copy of the notice may be served upon any occupant of said real property in the manner in which a summons is served, said service to be at least one hundred twenty days prior to sale:))~~ At least ninety days before the sale, the trustee shall:

(a) Record a notice in the form hereinafter specified in section 4(1)(f) of this 1975 amendatory act in the office of the auditor in each county in which the deed of trust is recorded;

(b) Cause a copy of the notice as hereinafter provided in section 4(1)(f) of this 1975 amendatory act, to be transmitted by both first class and certified mail, return receipt requested, to each person who has an interest in or lien or claim of lien against the property or some part thereof, provided such interest, lien or claim is of record at the time the notice is recorded and further provided the address of

such person is stated in the recorded instrument recording his interest, lien or claim, or is otherwise known to the trustee;

(c) Cause a copy of the notice as hereinafter provided in section 4(1)(f) of this 1975 amendatory act to be transmitted by both first class and certified mail, return receipt requested, to the plaintiff or his attorney of record, in any court action to foreclose a lien or other encumbrance on all or any part of the property, provided a court action is pending and a lis pendens in connection therewith is on file on the date the notice is recorded in the office of the auditor;

(d) Cause a copy of the notice as hereinafter provided in section 4(1)(f) of this 1975 amendatory act to be transmitted by both first class and certified mail, return receipt requested, to any person who shall have requested such notice in writing to the trustee at the address specified by the requesting person;

(e) Cause a copy of the notice as hereinafter provided in section 4(1)(f) of this 1975 amendatory act to be posted in a conspicuous place on said premises, or in lieu of posting, cause a copy of said notice to be served upon any occupant of said real property;

(f) The notice shall be in the following form:

NOTICE OF TRUSTEE'S SALE

I.

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

which is subject to that certain deed of trust dated, 19. ., recorded, 19. ., in volume of Mortgages, at Page, under Auditor's File No., mortgage records of County, Washington, from, as Grantor, to, as Trustee, to secure an obligation in favor of, as Beneficiary, the beneficial interest in which was assigned by, under an Assignment dated, 19. ., and recorded under Auditor's File No.

II.

No action is now pending to seek satisfaction of the obligation in any Court by reason of the Grantor's default on the obligation secured by said deed of trust.

III.

The default for which this foreclosure is made is 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 in the note provided from the day of, 19.., and such other costs and fees 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 said Deed of Trust as provided by statute. Said sale will be made without warranty, express or implied, regarding title, possession, or encumbrances on the day of, 19... The defaults referred to in paragraph III must be cured by the day of, 19.., (10 days before the sale) to cause a discontinuance of the sale. The sale will be discontinued and terminated if at any time before the day of, 19.., (10 days before the sale) the default as set forth in paragraph III is cured and the Trustee's fees and costs are paid. The sale may be terminated by the grantor anytime after the day of, 19.., (10 days before the sale) and before the sale by the grantor or his successor in interest paying the principal and interest plus costs and fees.

VI.

A written notice of default was transmitted by the Beneficiary or trustee to the grantor or his successor in interest at the following address:

.....
.....
.....

by both first class and certified mail on the day of, 19.., proof of which is in the possession of the trustee; or the grantor or his successor in interest was personally served on the day of, 19.., with said written notice of default by the beneficiary or his trustee, and the trustee has in his possession proof of such service.

VII.

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

VIII.

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

IX.

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

.....
 } Trustee
 }
 } Address
 }
 } Phone
 STATE OF WASHINGTON }
 COUNTY OF } ss.

On this day personally appeared before me, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this day of, 19...

.....
NOTARY PUBLIC in and for the State of Washington, residing at

[SEAL]

(2) In addition to providing the grantor or his successor in interest the notice as provided in section 4(1)(f) of this 1975 amendatory act, the trustee shall include with the notice provided in section 4(1)(f) of this 1975 amendatory act a statement to the grantor or his successor in interest in substantially the following form:

NOTICE OF FORECLOSURE

Pursuant to the Revised Code of Washington,
Chapter 61.24, et seq.

The attached Notice of Sale is a consequence of your default in your obligation to, the beneficiary of your Deed of Trust and holder of your Note. Unless you cure the default, your property will be sold at auction on the day of, 19...

To cure your default, you must bring your payments current and pay accrued late charges and other costs and attorneys fees as set forth below by the day of, 19... (10 days before sale date). To date, these arrears and costs are as follows:

	<u>Currently due to reinstate</u>	<u>Amount that will be due to reinstate in</u>	
		<u>40 days</u>	<u>80 days</u>
	<u>.....</u> <u>[date]</u>	<u>.....</u> <u>[date]</u>	<u>.....</u> <u>[date]</u>
<u>Delinquent payments from the 1st day of, 19.., in the amount of:</u>	<u>\$.....</u>	<u>\$.....</u>	<u>\$.....</u>
<u>Late charge for every delinquent dollar owed in the amount of:</u>	<u>\$.....</u>	<u>\$.....</u>	<u>\$.....</u>
<u>Attorneys fees in the amount of:</u>	<u>\$.....</u>	<u>\$.....</u>	<u>\$.....</u>
<u>Trustee's expenses in the amount of:</u>		<u>Estimated</u>	<u>Estimated</u>
<u>[Itemization]</u>		<u>Costs</u>	<u>Costs</u>
<u>.....</u>	<u>.....</u>	<u>.....</u>	<u>.....</u>
<u>.....</u>	<u>.....</u>	<u>.....</u>	<u>.....</u>
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<u>.....</u>	<u>.....</u>	<u>.....</u>	<u>.....</u>
<u>TOTALS</u>	<u>.....</u>	<u>.....</u>	<u>.....</u>

You may reinstate your Note and Deed of Trust at any time up to the day of, 19.., (10 days before the sale date) by paying the amount as set forth above. Of course, each month that passes brings another monthly payment due, and such monthly payment and any late charge must be added to your reinstating payment. AFTER THE DAY OF, 19.., (THE 80TH DAY), YOU MAY NOT REINSTATE YOUR DEED OF TRUST BY PAYING THE BACK PAYMENTS AND COSTS AND FEES AS OUTLINED ABOVE. In such a case, you will only be able to stop the sale by paying the total principal balance (\$.....) plus accrued interest, costs and advances, if any, made pursuant to the terms of the documents.

You may contest this default by initiating court action in the Superior Court of County. In such action, you may raise any legitimate defenses you

have to this default. You may also contest this sale in court by initiating court action. A copy of your Note and Deed of Trust are enclosed. You may wish to consult a lawyer. Legal action on your part may prevent or restrain the sale, but only if you persuade the court of the merits of your defense.

If you do not reinstate your Note and Deed of Trust by paying the amount demanded here, or if you do not succeed in restraining the sale by court action, your property will be sold to satisfy your obligations. The effect of such sale will be to deprive you and all those who hold by, through or under you of all interest in the property;

(3) In addition the trustee shall cause a copy of the notice as provided in section 4(1)(f) of this 1975 amendatory act to be published in a legal newspaper in each county in which the property or any part thereof is situated, once weekly during the four weeks preceding the time of sale;

(2) (4) ((The notice aforesaid shall indicate the names of the grantor, trustee and beneficiary of the deed of trust, the description of the property which is then subject to the deed of trust, the book and page of the book of record wherein the deed of trust is recorded, the default for which the foreclosure is made and the date by which the default must be cured in order to cause a discontinuance of the sale, the amount or amounts in arrears if a default is for failure to make payment, the sum owing on the obligation secured by the deed of trust, and the time and place of sale.)) On the date and at the time designated in the notice of sale, the trustee shall sell the property at public auction to the highest bidder. The trustee may sell the property in gross or in parcels as the trustee shall deem most advantageous;

((3) (5) ((A copy of the notice aforesaid shall be published in a legal newspaper in each county in which the property or any part thereof is situated, once weekly during the four weeks preceding the time of sale.)) The place of sale shall be at any designated public place within the county where the property is located and if the property is in more than one county, the sale may be in either of the counties where the property is located. The sale shall be on the day and during the hours set by statute for the conduct of sales of real estate at execution;

((4) (6) ((The trustee shall sell the property in gross or in parcels as it shall determine, at the place and during the hours directed by statute for the conduct of sales of real estate at execution, at auction to the highest bidder.)) The trustee may for any cause he deems advantageous continue the sale for a period or periods not exceeding a total of thirty days by a public proclamation at the time and place fixed in the notice of sale. No other notice of the postponed sale need be given;

((5) (7) The purchaser shall forthwith pay the price bid and on payment the trustee shall execute to the purchaser its deed; the deed shall recite the facts showing that the sale was conducted in compliance with all of the requirements of this chapter and of the deed of trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value (-);

((6) (8) The sale as authorized under this chapter shall not take place less than ((six months)) one hundred ninety days from the date of default in the obligation secured.

Sec. 5. Section 9, chapter 74, Laws of 1965 as amended by section 4, chapter 30, Laws of 1967 and RCW 61.24.090 are each amended to read as follows:

(1) At any time prior to the ((time)) tenth day before the date set by the trustee for the sale in the recorded notice of sale, or in the event the trustee continues the sale pursuant to section 4(6) of this 1975 amendatory act, at any time prior to the tenth day before the actual sale, the grantor or his successor in interest, any beneficiary under a subordinate deed of trust or any person having a subordinate lien or encumbrance of record on the trust property or any part thereof, shall be entitled to cause a discontinuance of the sale proceedings by curing the default or defaults set forth in the notice, which in the case of a default by failure to pay, shall be by paying to the trustee ((a sum sufficient to cure all defaults other than such portion of principal as would not then be due had no default occurred, plus the costs of the trustee incurred and the trustee's fee accrued, which accrued fee shall not exceed fifty dollars.)):

(a) The entire amount then due under the terms of the deed of trust and the obligation secured thereby, other than such portion of the principal as would not then be due had no default occurred, and

(b) The expenses actually incurred by the trustee enforcing the terms of the note and deed of trust, including a reasonable trustee's fee, which is not to exceed twenty-five dollars at the time the notice of trustee's sale is given and is not to exceed fifty dollars forty days after the date of notice of trustee's sale is given and is not to exceed seventy-five dollars eighty days after the date of notice of trustee's sale is given, together with the trustee's reasonable attorney's fees, together with costs of recording the notice of discontinuance of notice of trustee's sale. In the event the property secured by the deed of trust is a single-family dwelling the total of the trustee's fees and the attorney's fees shall not exceed two hundred fifty dollars without court approval.

(2) Upon receipt of such payment the proceedings shall be discontinued, the deed of trust shall be reinstated and the obligation shall remain as though no acceleration had taken place.

(3) In the case of a default which is occasioned by other than failure to make payments, the person or persons causing the said default shall pay the expenses incurred by the trustee and the trustee's fees as set forth in subsection (1)(b) of this section.

(4) Any person having a subordinate lien of record on the trust property and who has cured the default or defaults pursuant to this section shall thereafter have included in his lien all payments made to cure any defaults, including interest thereon at ((six)) eight percent per annum, payments made for trustees' costs and fees incurred as authorized herein, and his reasonable attorney's fees and costs incurred resulting from any judicial action commenced to enforce his rights to advances under this section.

(5) If the default is cured and the obligation and the deed of trust reinstated in the manner hereinabove provided, the trustee shall properly execute, acknowledge and cause to be recorded a notice of discontinuance of trustee's sale under such deed of trust. A notice of discontinuance of trustee's sale when so executed and acknowledged is entitled to be recorded and shall be sufficient if it sets forth a record of the deed of trust and the book and page upon which the deed of trust is

recorded and a reference to the notice of sale and the book and page on which the name is recorded, and a notice that such sale is discontinued.

Sec. 6. Section 13, chapter 74, Laws of 1965 and RCW 61.24.130 are each amended to read as follows:

Nothing contained in this chapter shall prejudice the right of the grantor or his successor in interest to restrain, on any proper ground, a threatened sale by the trustee under a deed of trust. In the event that the property secured by the deed of trust is a single-family dwelling occupied by the grantor or his successor in interest, and the court finds that there is proper ground to restrain a threatened sale by the trustee under a deed of trust, the court shall require the grantor or his successor in interest to enter into a bond in the amount of two hundred fifty dollars with surety to the satisfaction of the clerk of the superior court to the adverse party affected thereby, conditioned to pay all damages and costs which may accrue by reason of the injunction or restraining order. In addition, the court shall require as a condition of continuing the restraining order that the grantor or his successors in interest shall pay to the clerk of the court every thirty days the monthly payment of principal and interest that would be due on the obligation secured by the deed of trust if the deed of trust was not being foreclosed.

Passed the Senate May 22, 1975.

Passed the House May 19, 1975.

Approved by the Governor May 31, 1975.

Filed in Office of Secretary of State May 31, 1975.

CHAPTER 130

[Substitute Senate Bill No. 2966]

FIRE PROTECTION DISTRICTS—LOCAL IMPROVEMENT DISTRICTS

AN ACT Relating to fire protection districts; amending section 39, chapter 34, Laws of 1939 as last amended by section 1, chapter 16, Laws of 1972 ex. sess. and RCW 52.16.070; amending section 40, chapter 34, Laws of 1939 as amended by section 1, chapter 161, Laws of 1961 and RCW 52.20.010; amending section 41, chapter 34, Laws of 1939 as amended by section 2, chapter 161, Laws of 1961 and RCW 52.20.020; amending section 3, chapter 161, Laws of 1961 and RCW 52.20.025; creating new sections; repealing section 17, chapter 34, Laws of 1939, section 60, chapter 70, Laws of 1941 and RCW 52.08.070; repealing section 44, chapter 34, Laws of 1939 and RCW 52.20.050; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 39, chapter 34, Laws of 1939 as last amended by section 1, chapter 16, Laws of 1972 ex. sess. and RCW 52.16.070 are each amended to read as follows:

Except as authorized by virtue of the issuance and sale of district coupon warrants and general obligation bonds, and the creation of local improvements districts and the issuance of local improvement bonds and warrants of the fire protection district, the board of fire commissioners shall have no authority to incur expenses or other financial obligations payable in any year in excess of the aggregate amount of taxes levied for that year, revenues derived from contracts, leases and fire protection services rendered to any other municipal corporation, person, firm or corporation, or state agency, grants, bequests, gifts or donations