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**HOUSE BILL 1108**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By Representative Orwall**

Prefiled 01/07/21.

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, it is  
13 likely that, absent legislative action, the mediation, reporting, and  
14 payment provisions of the foreclosure fairness act will apply to very  
15 few if any beneficiaries in calendar year 2021 because the threshold  
16 numbers that trigger application of these provisions will not be met.  
17 The legislature therefore intends to put in place a temporary stopgap  
18 remedy so that vital assistance provisions of the foreclosure  
19 fairness act are not lost during 2021 at the very time that  
20 foreclosure activity is likely to be 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) During the 2021 calendar year only, 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       **Sec. 3.** RCW 61.24.173 and 2018 c 306 s 7 are each amended to  
24 read as follows:

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

30       (a) Report to the department the number of notices of trustee's  
31 sale recorded for each residential property during the previous  
32 quarter;

33       (b) Remit the amount required under subsection (2) of this  
34 section; and

35       (c) Report and update beneficiary contact information for the  
36 person and work group responsible for the beneficiary's compliance  
37 with the requirements of the foreclosure fairness act created in this  
38 chapter.

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

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

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

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

27 (b) During the 2021 calendar year only, this section does not  
28 apply to any beneficiary or loan servicer that is a federally insured  
29 depository institution, as defined in 12 U.S.C. Sec. 461(b)(1)(A),  
30 and that certifies under penalty of perjury that fewer than 50  
31 notices of trustee's sale were recorded on its behalf in 2019.

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

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

37 NEW SECTION. Sec. 4. This act is necessary for the immediate  
38 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes  
2 effect immediately.

3 NEW SECTION. **Sec. 5.** This act expires June 30, 2022.

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