

Washington Enacts HB 2057 Regarding Real Property Foreclosure, Abandoned Property and Successors In Interest to Deceased Borrowers

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Ever since the Washington Supreme Court's decision in the *Jordan v. NationStar* case, loan servicers have been on edge about securing abandoned property. House Bill 20157 (the "Bill"), enacted this week, seeks to address this, and several other, pressing issues.

Most of the sections will become effective ninety (90) days after the Bill was signed, or June 6, 2018; however, the new requirements applicable to Notices of Default ("NOD") will apply to NODs issued after June 30, 2018. The Bill covers several subjects related to real estate loans, including residential and commercial loans and amends the Revised Code of Washington including, but not limited to, the following areas:

- Statutory rights for lenders and servicers to take action as to vacant and abandoned properties prior to foreclosure, clarifying the Washington Supreme Court's ruling in *Jordan v. NationStar* case.
- Clarification of the owner/holder/actual holder language consistent with the *Brown v. Department of Commerce* decision.
- Addition of required information on the first page of the Notice of Trustee's Sale for commercial and residential loans.
- Addition of statutory due diligence and notice requirements for nonjudicial foreclosure in the event a borrower is deceased. Specifically, the trustee must provide notice of the foreclosure to all known heirs AND, if unknown, perform due diligence to locate the heirs.
- Addition of statutory requirements for interaction of lenders, servicers and trustees with successors in interest to a deceased borrower. Similar to California's 2017 Widows and Orphans' bill and the new CFPB rules (effective April 2018), a servicer cannot proceed with foreclosure until it confirms whether the person qualifies as a successor-in-interest under the new statute.
- A new pre-foreclosure notice required for judicial foreclosures.
- A new option for non-judicial foreclosure trustees to file a declaration of nonmonetary interest in response to civil litigation in which no wrongful conduct is alleged against the trustee (similar to California's Civil Code section 2924l).
- Requirements that the beneficiary note declaration now be in the trustee's possession at the time the NOD is issued and provided to the borrower with the NOD.

We have attached a copy of the Bill for your review, as the above list is a basic summary of the Bill's detailed provisions. If you would like to discuss the specifics of the Bill in greater detail, please do not hesitate to contact Michelle Mierzwa, Compliance Partner, at mmierzwa@wrightlegal.net with any questions or concerns regarding interpretation and implementation of the Bill.