

HB 1421 - H AMD 248

By Representative Tharinger

ADOPTED 04/18/2013

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 35.49.160 and 1965 c 7 s 35.49.160 are each amended
4 to read as follows:

5 Whenever property struck off to or bid in by a county at a sale for
6 general taxes is subsequently sold by the county, the proceeds of the
7 sale (~~shall first be applied to discharge in full the lien or liens~~
8 ~~for general taxes for which property was sold; the remainder, or such~~
9 ~~portion thereof as may be necessary, shall be paid to the city or town~~
10 ~~to discharge all local improvement assessment liens against the~~
11 ~~property; and the surplus, if any, shall~~) must be applied as follows:

12 (1) First, to reimburse the county for the costs of foreclosure and
13 sale as defined in RCW 36.35.110;

14 (2) Any remaining proceeds must next be applied to pay any amounts
15 deferred under chapter 84.37 or 84.38 RCW on the property, including
16 accrued interest, and outstanding at the time the county acquired the
17 property by tax deed;

18 (3) Any remaining proceeds must next be applied to discharge in
19 full the lien or liens for general taxes for which the property was
20 sold;

21 (4) Any remaining proceeds must be paid to the city or town to
22 discharge all local improvement assessment liens against the property;
23 and

24 (5) Any surplus proceeds must be distributed among the proper
25 county funds.

26 **Sec. 2.** RCW 36.35.110 and 1961 c 15 s 84.64.230 are each amended
27 to read as follows:

28 (1) No claims (~~shall ever be~~) are allowed against the county from
29 any municipality, school district, road district or other taxing

1 district for taxes levied on property acquired by the county by tax
2 deed under the provisions of this chapter, but all taxes (~~shall~~) must
3 at the time of deeding (~~said~~) the property be thereby canceled(~~+~~
4 ~~PROVIDED, That~~). However, the proceeds of any sale of any property
5 acquired by the county by tax deed (~~shall be~~) must first be applied
6 to reimburse the county for the costs of foreclosure and sale. The
7 remainder of the proceeds, if any, must be applied to pay any amounts
8 deferred under chapter 84.37 or 84.38 RCW on the property, including
9 accrued interest, and outstanding at the time the county acquired the
10 property by tax deed. The remainder of the proceeds, if any, must be
11 justly apportioned to the various funds existing at the date of the
12 sale, in the territory in which such property is located, according to
13 the tax levies of the year last in process of collection.

14 (2) For purposes of this section, "costs of foreclosure and sale"
15 means those costs of foreclosing on the property that, when collected,
16 are subject to RCW 84.56.020(9), and the direct costs incurred by the
17 county in selling the property.

18 **Sec. 3.** RCW 36.35.140 and 1961 c 15 s 84.64.310 are each amended
19 to read as follows:

20 The board of county commissioners of any county may, pending sale
21 of any county property acquired by foreclosure of delinquent taxes or
22 amounts deferred under chapter 84.37 or 84.38 RCW, rent any portion
23 thereof on a tenancy from month to month. From the proceeds of the
24 rentals the board of county commissioners (~~shall~~) must first pay all
25 expense in management of said property and in repairing, maintaining
26 and insuring the improvements thereon(~~, and~~). The balance of said
27 proceeds (~~shall~~) must first be paid to reimburse the county for the
28 costs of foreclosure and sale as defined in RCW 36.35.110. The
29 remainder of the proceeds, if any, must be paid to the department of
30 revenue in the amount of any taxes deferred under chapter 84.37 or
31 84.38 RCW on the property, including accrued interest, outstanding at
32 the time the county acquired the property by tax deed, and then to the
33 various taxing units interested in the taxes levied against said
34 property in the same proportion as the current tax levies of the taxing
35 units having levies against said property.

1 **Sec. 4.** RCW 36.35.190 and 2009 c 549 s 4076 are each amended to
2 read as follows:

3 (1) Any person, firm or corporation who or which may have been
4 entitled to redeem the property involved prior to the issuance of the
5 treasurer's deed to the county, and his or her or its successor in
6 interest, (~~shall have~~) has the right, at any time after the
7 commencement of, and prior to the judgment in the action authorized
8 herein, to redeem such property by paying to the county treasurer:

9 (a) The amount of any taxes deferred under chapter 84.37 or 84.38
10 RCW on the property, including accrued interest, outstanding at the
11 time the county acquired the property by tax deed;

12 (b) The amount of the taxes for which the property was sold to the
13 county, and the amount of any other general taxes which may have
14 accrued prior to the issuance of said treasurer's deed, together with
15 interest on all such taxes from the date of delinquency thereof,
16 respectively, at the rate of twelve percent per annum(~~, and by~~
17 paying));

18 (c) For the benefit of the assessment district concerned the amount
19 of principal, penalty and interest of all special assessments, if any,
20 which (~~shall~~) have been levied against such property (~~and by~~
21 paying)); and

22 (d) Such proportional part of the costs of the tax or tax deferral
23 foreclosure proceedings and of the action herein authorized as the
24 county treasurer (~~shall~~) determines.

25 (2) Upon redemption of any property before judgment as herein
26 provided, the county treasurer (~~shall~~) must issue to the redemptioner
27 a certificate specifying the amount of the taxes, including amounts
28 deferred under chapters 84.37 and 84.38 RCW, special assessments,
29 penalty, interest and costs charged describing the land and stating
30 that the taxes, including any applicable deferred taxes, special
31 assessments, penalty, interest and costs specified have been fully
32 paid, and the liens thereof discharged. Such certificate (~~shall~~)
33 must clear the land described therein from any claim of the county
34 based on the treasurer's deed previously issued in the tax or tax
35 deferral foreclosure proceedings.

36 **Sec. 5.** RCW 36.35.220 and 2009 c 549 s 4077 are each amended to
37 read as follows:

1 Any person filing a statement in such action (~~shall~~) must pay the
2 clerk of the court an appearance fee in the amount required by the
3 county for appearances in civil actions, and (~~shall-be~~) is required
4 to tender the amount of all taxes, including any amounts deferred under
5 chapter 84.37 or 84.38 RCW, interest and costs charged against the real
6 property to which he or she lays claim, and no further costs in such
7 action (~~shall~~) may be required or recovered.

8 **Sec. 6.** RCW 36.35.250 and 1998 c 106 s 19 are each amended to read
9 as follows:

10 Nothing in RCW 36.35.160 through 36.35.270 contained (~~shall~~) may
11 be construed to deprive any city, town, or other unit of local
12 government that imposed special assessments on the property by
13 including the property in a local improvement or special assessment
14 district of its right to reimbursement for special assessments out of
15 any surplus over and above the taxes, including amounts deferred under
16 chapters 84.37 and 84.38 RCW, interest and costs involved.

17 **Sec. 7.** RCW 84.37.070 and 2010 c 161 s 1167 are each amended to
18 read as follows:

19 Whenever a person's special assessment or real property tax
20 obligation, or both, is deferred under this chapter, the amount
21 deferred and required to be paid pursuant to RCW 84.38.120 (~~shall~~)
22 becomes a lien in favor of the state upon his or her property and
23 (~~shall-have~~) has priority as provided in chapters 35.49, 35.50,
24 36.35, and 84.60 RCW(~~(- PROVIDED, That)~~). However, the interest of a
25 mortgage or purchase contract holder who requires an accumulation of
26 reserves out of which real estate taxes are paid (~~shall-have~~) has
27 priority to said deferred lien. This lien may accumulate up to forty
28 percent of the amount of the claimant's equity value in (~~said~~) the
29 property and the rate of interest (~~shall~~) must be an average of the
30 federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two
31 percentage points. The rate set for each new year (~~shall-be~~) is
32 computed by taking an arithmetical average to the nearest percentage
33 point of the federal short-term rate, compounded annually. That
34 average (~~shall~~) must be calculated using the rates from four months:
35 January, April, and July of the calendar year immediately preceding the
36 new year, and October of the previous preceding year. The interest

1 (~~shall be~~) is calculated from the time it could have been paid before
2 delinquency until (~~said~~) such obligation is paid or the date that the
3 obligation is charged off as finally uncollectible. In the case of a
4 mobile home, the department of licensing (~~shall~~) must show the
5 state's lien on the certificate of title for the mobile home. In the
6 case of all other property, the department of revenue (~~shall~~) must
7 file a notice of the deferral with the county recorder or auditor.

8 **Sec. 8.** RCW 84.38.100 and 2010 c 161 s 1168 are each amended to
9 read as follows:

10 Whenever a person's special assessment and/or real property tax
11 obligation is deferred under the provisions of this chapter, the amount
12 deferred and required to be paid pursuant to RCW 84.38.120 (~~shall~~)
13 becomes a lien in favor of the state upon his or her property and
14 (~~shall have~~) has priority as provided in chapters 35.49, 35.50,
15 36.35, and 84.60 RCW(~~:- PROVIDED, That~~). However, the interest of a
16 mortgage or purchase contract holder who is required to cosign a
17 declaration of deferral under RCW 84.38.090, (~~shall have~~) has
18 priority to (~~said~~) such deferred lien. This lien may accumulate up
19 to eighty percent of the amount of the claimant's equity value in
20 (~~said~~) the property and (~~shall~~) must bear interest at the rate of
21 five percent per year from the time it could have been paid before
22 delinquency until said obligation is paid(~~:- PROVIDED, That~~).
23 However, when taxes are deferred as provided in RCW 84.64.050, the
24 amount (~~shall~~) must bear interest at the rate of five percent per
25 year from the date the declaration is filed until the obligation is
26 paid or the date that the obligation is charged off as finally
27 uncollectible. In the case of a mobile home, the department of
28 licensing (~~shall~~) must show the state's lien on the certificate of
29 title for the mobile home. In the case of all other property, the
30 department of revenue (~~shall~~) must file a notice of the deferral with
31 the county recorder or auditor.

32 **Sec. 9.** RCW 84.38.140 and 2001 c 299 s 18 are each amended to read
33 as follows:

34 (1) The department (~~shall~~) must collect all the amounts deferred
35 together with interest under this chapter. However, in the event that
36 the department is unable to collect an amount deferred together with

1 interest, that amount deferred together with interest (~~shall~~) must be
2 collected by the county treasurer in the manner provided for in chapter
3 84.56 RCW. For purposes of collection of deferred taxes, the
4 provisions of chapters 84.56, 84.60, and 84.64 RCW (~~shall be~~) are
5 applicable.

6 (2) When any deferred special assessment and/or real property taxes
7 together with interest are collected the moneys (~~shall~~) must be
8 deposited in the state general fund.

9 (3) The department may charge off as finally uncollectible any
10 amount deferred under this chapter or chapter 84.37 RCW, including
11 accrued interest, if the department is satisfied that there are no
12 cost-effective means of collecting the amount due.

13 **Sec. 10.** RCW 84.60.010 and 1969 ex.s. c 251 s 1 are each amended
14 to read as follows:

15 All taxes and levies which may hereafter be lawfully imposed or
16 assessed (~~shall be and they~~) are (~~hereby~~) declared to be a lien
17 respectively upon the real and personal property upon which they may
18 hereafter be imposed or assessed, which liens (~~shall~~) include all
19 charges and expenses of and concerning the (~~said~~) taxes which, by the
20 provisions of this title, are directed to be made. The (~~said~~) lien
21 (~~shall have~~) has priority to and (~~shall~~) must be fully paid and
22 satisfied before any recognizance, mortgage, judgment, debt,
23 obligation, or responsibility to or with which (~~said~~) the real and
24 personal property may become charged or liable, except that the lien is
25 of equal rank with liens for amounts deferred under chapter 84.37 or
26 84.38 RCW.

27 NEW SECTION. **Sec. 11.** A new section is added to chapter 84.64 RCW
28 to read as follows:

29 Unless the context clearly requires otherwise, for purposes of this
30 chapter:

- 31 (1) "Interest" means interest and penalties; and
- 32 (2) "Taxes;" "taxes, interest and costs;" and "taxes, interest, or
33 costs" include any assessments and amounts deferred under chapters
34 84.37 and 84.38 RCW, where such assessments and deferred amounts are
35 included in a certificate of delinquency by the county treasurer.

1 **Sec. 12.** RCW 84.64.050 and 1999 c 18 s 7 are each amended to read
2 as follows:

3 (1) After the expiration of three years from the date of
4 delinquency, when any property remains on the tax rolls for which no
5 certificate of delinquency has been issued, the county treasurer
6 (~~shall~~) must proceed to issue certificates of delinquency on the
7 property to the county for all years' taxes, interest, and costs(~~+~~
8 ~~PROVIDED, That~~). However, the county treasurer, with the consent of
9 the county legislative authority, may elect to issue a certificate for
10 fewer than all years' taxes, interest, and costs to a minimum of the
11 taxes, interest, and costs for the earliest year.

12 (2) Certificates of delinquency (~~shall be~~) are prima facie
13 evidence that:

14 (~~1~~) (a) The property described was subject to taxation at the
15 time the same was assessed;

16 (~~2~~) (b) The property was assessed as required by law;

17 (~~3~~) (c) The taxes or assessments were not paid at any time
18 before the issuance of the certificate;

19 (~~4~~) (d) Such certificate (~~shall have~~) has the same force and
20 effect as a lis pendens required under chapter 4.28 RCW.

21 (3) The county treasurer may include in the certificate of
22 delinquency any assessments which are due on the property and are the
23 responsibility of the county treasurer to collect. (~~For purposes of~~
24 ~~this chapter, "taxes, interest, and costs" include any assessments~~
25 ~~which are so included by the county treasurer, and "interest" means~~
26 ~~interest and penalties unless the context requires otherwise.))
27 However, if the department of revenue has previously notified the
28 county treasurer in writing that the property has a lien on it for
29 deferred property taxes, the county treasurer must include in the
30 certificate of delinquency any amounts deferred under chapters 84.37
31 and 84.38 RCW that remain unpaid, including accrued interest and costs.~~

32 (4) The treasurer (~~shall~~) must file the certificates when
33 completed with the clerk of the court at no cost to the treasurer, and
34 the treasurer (~~shall~~) must thereupon, with legal assistance from the
35 county prosecuting attorney, proceed to foreclose in the name of the
36 county, the tax liens embraced in such certificates. Notice and
37 summons must be served or notice given in a manner reasonably
38 calculated to inform the owner or owners, and any person having a

1 recorded interest in or lien of record upon the property, of the
2 foreclosure action to appear within thirty days after service of such
3 notice and defend such action or pay the amount due. Either (a)
4 personal service upon the owner or owners and any person having a
5 recorded interest in or lien of record upon the property, or (b)
6 publication once in a newspaper of general circulation, which is
7 circulated in the area of the property and mailing of notice by
8 certified mail to the owner or owners and any person having a recorded
9 interest in or lien of record upon the property, or, if a mailing
10 address is unavailable, personal service upon the occupant of the
11 property, if any, is sufficient. If such notice is returned as
12 unclaimed, the treasurer (~~shall~~) must send notice by regular first-
13 class mail. The notice (~~shall~~) must include the legal description on
14 the tax rolls, the year or years for which assessed, the amount of tax
15 and interest due, and the name of owner, or reputed owner, if known,
16 and the notice must include the local street address, if any, for
17 informational purposes only. The certificates of delinquency issued to
18 the county may be issued in one general certificate in book form
19 including all property, and the proceedings to foreclose the liens
20 against the property may be brought in one action and all persons
21 interested in any of the property involved in the proceedings may be
22 made codefendants in the action, and if unknown may be therein named as
23 unknown owners, and the publication of such notice (~~shall be~~) is
24 sufficient service thereof on all persons interested in the property
25 described therein, except as provided above. The person or persons
26 whose name or names appear on the treasurer's rolls as the owner or
27 owners of the property (~~shall~~) must be considered and treated as the
28 owner or owners of the property for the purpose of this section, and if
29 upon the treasurer's rolls it appears that the owner or owners of the
30 property are unknown, then the property (~~shall~~) must be proceeded
31 against, as belonging to an unknown owner or owners, as the case may
32 be, and all persons owning or claiming to own, or having or claiming to
33 have an interest therein, are hereby required to take notice of the
34 proceedings and of any and all steps thereunder(~~:-PROVIDED, That~~).
35 However, prior to the sale of the property, the treasurer (~~shall~~)
36 must order or conduct a title search of the property to be sold to
37 determine the legal description of the property to be sold and the
38 record title holder, and if the record title holder or holders differ

1 from the person or persons whose name or names appear on the
2 treasurer's rolls as the owner or owners, the record title holder or
3 holders (~~shall~~) must be considered and treated as the owner or owners
4 of the property for the purpose of this section, and (~~shall be~~) are
5 entitled to the notice provided for in this section. Such title search
6 (~~shall~~) must be included in the costs of foreclosure.

7 (5) If the title search required by subsection (4) of this section
8 reveals a lien in favor of the state for deferred taxes on the property
9 under RCW 84.37.070 or 84.38.100 and such deferred taxes are not
10 already included in the certificate of delinquency, the county
11 treasurer must issue an amended certificate of delinquency on the
12 property to include the outstanding amount of deferred taxes, including
13 accrued interest. The amended certificate of delinquency must be filed
14 with the clerk of the court as provided in subsection (4) of this
15 section.

16 (6) The county treasurer (~~shall~~) may not sell property (~~which~~)
17 that is eligible for deferral of taxes under chapter 84.38 RCW but
18 (~~shall~~) must require the owner of the property to file a declaration
19 to defer taxes under chapter 84.38 RCW."

20 Correct the title.

EFFECT: Specifies that proceeds from the sale of certain property
at a county auction must first be applied to reimburse the county for
the costs of foreclosure and sale.

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