

HOUSE BILL REPORT

HB 2592

As Reported by House Committee On:
Judiciary

Title: An act relating to county electronic public auctions.

Brief Description: Concerning county electronic public auctions.

Sponsors: Representatives Stonier, Pike, Wylie, Harris, Fey, Orcutt and Moeller.

Brief History:

Committee Activity:

Judiciary: 1/30/14, 2/5/14 [DPS].

Brief Summary of Substitute Bill

- Authorizes counties to sell real and personal property at auction via electronic media.
- Allows a county treasurer to require a good faith deposit from auction participants, and makes provision for notice, forfeiture and refunds of deposits, and the acceptance of electronic funds and transfers for payment.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Jinkins, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; Nealey, Assistant Ranking Minority Member; Goodman, Haler, Kirby, Klippert, Muri, Orwall, Roberts, Shea and Walkinshaw.

Staff: Cece Clynch (786-7195).

Background:

After three years from the date of real property tax delinquency, the county treasurer may begin foreclosure proceedings to recover past due property taxes. The first step in the process is issuance of a certificate of delinquency, for the total amount of unpaid taxes, interest, and assessments, which is then filed with the clerk of the court. Certificates of delinquency may be issued in one general certificate in book form including all property, and

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the proceedings to foreclose the liens against several properties may be brought in a single action with all persons interested in any of the property named as defendants in the action.

Notice and summons are served or given to the owners and any person having a recorded interest in, or recorded lien upon, the property, notifying them to appear within 30 days after service and defend the action or pay the amount due. The court examines each application for judgment foreclosing a tax lien, as well as any defenses. Following court proceedings, the court gives judgment for such taxes, interest, and costs as appear to be due and issues an order for the sale of the property against which judgment is made. This order provides authority for the sale of the property.

The county treasurer must sell the property to the highest and best bidder for cash. The minimum bid is the total amount of taxes, interest, and costs. All sales "shall be made at a location in the county" on a date and time selected by the treasurer, and continue from day to day during the same hours until all lots or tracts are sold. Sales may not be conducted on Saturdays, Sundays, and holidays. Ten successive days prior notice of the sale is required, by posting in three public places in the county, one of which must be in the office of the treasurer.

Real property may be redeemed at any time before the close of business the day before the sale by payment of the amount for which the certificate of delinquency was issued, together with interest, and any taxes, interest, and costs accruing after issuance of the certificate of delinquency. No fee is charged for redemption. Minors and incompetent persons have three years after the date of the sale to redeem.

If the sale is for more than the minimum bid, the excess must be refunded to the record owner of the property if a refund application is made. If the county does not receive the required minimum bid, the county acquires title.

The treasurer is also authorized to sell, at a public auction, personal property which has been distrained for failure to pay personal property taxes. Personal property may include standing timber and mobile homes.

When the sale of county property has been authorized, it may be sold at a public auction, a privately operated consignment auction that is open to the public, or by sealed bid.

There is nothing in any of these statutes that specifically authorizes auctions via the internet.

Summary of Substitute Bill:

Counties are explicitly authorized to conduct public auctions via electronic media for county owned property, tax title lands that the county acquired because there were no bids that met the required minimum, and personal and real property tax lien foreclosures.

In a public auction sale by electronic media, the county treasurer may:

- require persons to provide a deposit in order to participate;

- accept bids for as long as deemed necessary; and
- require electronic funds transfers to pay any deposits and winning bids.

A deposit from a winning bidder must be applied to the balance due. If the winning bidder does not follow the terms of sale, the deposit is forfeited and credited to the treasurer's operations and maintenance fund. Deposits for nonwinning bids must be refunded within 10 business days. The form of notice to be utilized when the auction is via electronic media is specified.

All property sold is offered and sold as is. The treasurer is not liable for conditions of the property, including but not limited to errors in the assessor's records. Nor is the treasurer liable for failure of a device not owned, operated, and managed by the county that prevents a person from participating in any sale.

A statutory provision related to taxes owing in 1926 is stricken.

Substitute Bill Compared to Original Bill:

The substitute bill adds an intent section expressing legislative intent to grant counties clear authority to conduct public auctions via the internet. It specifically authorizes auctions via electronic media for county owned property, tax title lands, and personal and real property tax lien foreclosures, rather than just authorizing such sales for real property tax lien foreclosures. Other provisions remain similar to the original bill, however, they are specifically made applicable to all of the various types of property sold in auctions via electronic media.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Seven counties are currently conducting auctions via electronic media. County legal counsel would like to have explicit statutory authority for conducting auctions in this manner. There is a substitute bill that is being crafted in the Senate for the companion to this bill that does specifically include personal property as well as real property. Hopefully, this substitute bill will become available soon so that it can be passed by both houses. The Spokane treasurer provided the impetus for another similar bill on this topic and he should be consulted with respect to any substitute bill that is put forward. The Pierce County treasurer has read the statutes to already allow such auctions. Recently, a writ of prohibition was sought to prohibit an internet auction by the Pierce County Treasurer. The trial court ruled in favor of the county in that case, but the prosecutor would like to see explicit language put in statute. There will be better results if the auctions are done online. Pierce County's sales

went from selling one-third of the properties to selling one-half of the properties. There were more bids and they were better bids. No one wants to foreclose, and most properties on which taxes are delinquent do not end up in foreclosure. The county works with people so they don't end up in foreclosure, however, for those that do get foreclosed, internet auctions will get better results.

(Opposed) None.

Persons Testifying: Representative Stonier, prime sponsor; Doug Lasher, Clark County Treasurer's Office; and Mike Lonergan, Pierce County Treasurer's Office.

Persons Signed In To Testify But Not Testifying: None.