
SUBSTITUTE SENATE BILL 5442

State of Washington

63rd Legislature

2013 Regular Session

By Senate Ways & Means (originally sponsored by Senators Hill and Hargrove; by request of Department of Revenue)

READ FIRST TIME 02/22/13.

1 AN ACT Relating to protecting the state's interest in collecting
2 deferred property taxes; amending RCW 35.49.160, 36.35.110, 36.35.140,
3 36.35.190, 36.35.220, 36.35.250, 84.37.070, 84.38.100, 84.38.140,
4 84.60.010, and 84.64.050; and adding a new section to chapter 84.64
5 RCW.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 35.49.160 and 1965 c 7 s 35.49.160 are each amended to
8 read as follows:

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

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

18 (2) Any remaining proceeds must next be applied to pay any amounts

1 deferred under chapter 84.37 or 84.38 RCW on the property, including
2 accrued interest, and outstanding at the time the county acquired the
3 property by tax deed;

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

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

9 (5) Any surplus proceeds must be distributed among the proper
10 county funds.

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

13 (1) No claims ((shall ever be)) are allowed against the county from
14 any municipality, school district, road district or other taxing
15 district for taxes levied on property acquired by the county by tax
16 deed under the provisions of this chapter, but all taxes shall at the
17 time of deeding said property be thereby canceled((÷PROVIDED, That)).
18 However, the proceeds of any sale of any property acquired by the
19 county by tax deed ((shall be)) must first be applied to reimburse the
20 county for the costs of foreclosure and sale. The remainder of the
21 proceeds, if any, must be applied to pay any amounts deferred under
22 chapter 84.37 or 84.38 RCW on the property, including accrued interest,
23 and outstanding at the time the county acquired the property by tax
24 deed. The remainder of the proceeds, if any, must be justly
25 apportioned to the various funds existing at the date of the sale, in
26 the territory in which such property is located, according to the tax
27 levies of the year last in process of collection.

28 (2) For purposes of this section, "costs of foreclosure and sale"
29 means those costs of foreclosing on the property, which when collected
30 are subject to RCW 84.56.020(9), and the direct costs incurred by the
31 county in selling the property.

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

34 The board of county commissioners of any county may, pending sale
35 of any county property acquired by foreclosure of delinquent taxes or
36 amounts deferred under chapter 84.37 or 84.38 RCW, rent any portion

1 thereof on a tenancy from month to month. From the proceeds of the
2 rentals the board of county commissioners (~~shall~~) must first pay all
3 expense in management of said property and in repairing, maintaining
4 and insuring the improvements thereon(~~, and~~). The balance of said
5 proceeds (~~shall~~) must first be paid to reimburse the county for the
6 costs of foreclosure and sale as defined in RCW 36.35.110. The
7 remainder of the proceeds, if any, must be paid to the department of
8 revenue in the amount of any taxes deferred under chapter 84.37 or
9 84.38 RCW on the property, including accrued interest, outstanding at
10 the time the county acquired the property by tax deed, and then to the
11 various taxing units interested in the taxes levied against said
12 property in the same proportion as the current tax levies of the taxing
13 units having levies against said property.

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

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

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

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

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

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

1 (2) Upon redemption of any property before judgment as herein
2 provided, the county treasurer shall issue to the redemptioner a
3 certificate specifying the amount of the taxes, including amounts
4 deferred under chapters 84.37 and 84.38 RCW, special assessments,
5 penalty, interest and costs charged describing the land and stating
6 that the taxes, including any applicable deferred taxes, special
7 assessments, penalty, interest and costs specified have been fully
8 paid, and the liens thereof discharged. Such certificate shall clear
9 the land described therein from any claim of the county based on the
10 treasurer's deed previously issued in the tax or tax deferral
11 foreclosure proceedings.

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

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

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

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

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

32 Whenever a person's special assessment or real property tax
33 obligation, or both, is deferred under this chapter, the amount
34 deferred and required to be paid pursuant to RCW 84.38.120 (~~shall~~)
35 becomes a lien in favor of the state upon his or her property and

1 ((~~shall have~~)) has priority as provided in chapters 35.49, 35.50,
2 36.35, and 84.60 RCW(~~(: PROVIDED, That)~~). However, the interest of a
3 mortgage or purchase contract holder who requires an accumulation of
4 reserves out of which real estate taxes are paid ((~~shall have~~)) has
5 priority to said deferred lien. This lien may accumulate up to forty
6 percent of the amount of the claimant's equity value in ((~~said~~)) the
7 property and the rate of interest ((~~shall~~)) must be an average of the
8 federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two
9 percentage points. The rate set for each new year ((~~shall be~~)) is
10 computed by taking an arithmetical average to the nearest percentage
11 point of the federal short-term rate, compounded annually. That
12 average ((~~shall~~)) must be calculated using the rates from four months:
13 January, April, and July of the calendar year immediately preceding the
14 new year, and October of the previous preceding year. The interest
15 ((~~shall be~~)) is calculated from the time it could have been paid before
16 delinquency until ((~~said~~)) such obligation is paid or the date that the
17 obligation is charged off as finally uncollectible. In the case of a
18 mobile home, the department of licensing ((~~shall~~)) must show the
19 state's lien on the certificate of title for the mobile home. In the
20 case of all other property, the department of revenue ((~~shall~~)) must
21 file a notice of the deferral with the county recorder or auditor.

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

24 Whenever a person's special assessment and/or real property tax
25 obligation is deferred under the provisions of this chapter, the amount
26 deferred and required to be paid pursuant to RCW 84.38.120 ((~~shall~~))
27 becomes a lien in favor of the state upon his or her property and
28 ((~~shall have~~)) has priority as provided in chapters 35.49, 35.50,
29 36.35, and 84.60 RCW(~~(: PROVIDED, That)~~). However, the interest of a
30 mortgage or purchase contract holder who is required to cosign a
31 declaration of deferral under RCW 84.38.090, ((~~shall have~~)) has
32 priority to ((~~said~~)) such deferred lien. This lien may accumulate up
33 to eighty percent of the amount of the claimant's equity value in
34 ((~~said~~)) the property and ((~~shall~~)) must bear interest at the rate of
35 five percent per year from the time it could have been paid before
36 delinquency until said obligation is paid(~~(: PROVIDED, That)~~).
37 However, when taxes are deferred as provided in RCW 84.64.050, the

1 amount (~~shall~~) must bear interest at the rate of five percent per
2 year from the date the declaration is filed until the obligation is
3 paid or the date that the obligation is charged off as finally
4 uncollectible. In the case of a mobile home, the department of
5 licensing (~~shall~~) must show the state's lien on the certificate of
6 title for the mobile home. In the case of all other property, the
7 department of revenue (~~shall~~) must file a notice of the deferral with
8 the county recorder or auditor.

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

11 (1) The department (~~shall~~) must collect all the amounts deferred
12 together with interest under this chapter. However, in the event that
13 the department is unable to collect an amount deferred together with
14 interest, that amount deferred together with interest (~~shall~~) must be
15 collected by the county treasurer in the manner provided for in chapter
16 84.56 RCW. For purposes of collection of deferred taxes, the
17 provisions of chapters 84.56, 84.60, and 84.64 RCW (~~shall be~~) are
18 applicable.

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

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

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

28 All taxes and levies which may hereafter be lawfully imposed or
29 assessed (~~shall be and they~~) are (~~hereby~~) declared to be a lien
30 respectively upon the real and personal property upon which they may
31 hereafter be imposed or assessed, which liens (~~shall~~) include all
32 charges and expenses of and concerning the (~~said~~) taxes which, by the
33 provisions of this title, are directed to be made. The (~~said~~) lien
34 (~~shall have~~) has priority to and (~~shall~~) must be fully paid and
35 satisfied before any recognizance, mortgage, judgment, debt,
36 obligation, or responsibility to or with which (~~said~~) the real and

1 personal property may become charged or liable, except that the lien is
2 of equal rank with liens for amounts deferred under chapter 84.37 or
3 84.38 RCW.

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

6 Unless the context clearly requires otherwise, for purposes of this
7 chapter:

8 (1) "Interest" means interest and penalties; and

9 (2) "Taxes;" "taxes, interest and costs;" and "taxes, interest, or
10 costs" include any assessments and amounts deferred under chapters
11 84.37 and 84.38 RCW, where such assessments and deferred amounts are
12 included in a certificate of delinquency by the county treasurer.

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

15 (1) After the expiration of three years from the date of
16 delinquency, when any property remains on the tax rolls for which no
17 certificate of delinquency has been issued, the county treasurer
18 ~~((shall))~~ must proceed to issue certificates of delinquency on the
19 property to the county for all years' taxes, interest, and costs~~((+~~
20 ~~PROVIDED, That))~~. However, the county treasurer, with the consent of
21 the county legislative authority, may elect to issue a certificate for
22 fewer than all years' taxes, interest, and costs to a minimum of the
23 taxes, interest, and costs for the earliest year.

24 (2) Certificates of delinquency ~~((shall-be))~~ are prima facie
25 evidence that:

26 ~~((+1))~~ (a) The property described was subject to taxation at the
27 time the same was assessed;

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

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

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

33 (3) The county treasurer may include in the certificate of
34 delinquency any assessments which are due on the property and are the
35 responsibility of the county treasurer to collect. ~~((For purposes of~~
36 ~~this chapter, "taxes, interest, and costs" include any assessments~~

1 ~~which are so included by the county treasurer, and "interest" means~~
2 ~~interest and penalties unless the context requires otherwise.))~~
3 However, if the department of revenue has previously notified the
4 county treasurer in writing that the property has a lien on it for
5 deferred property taxes, the county treasurer must include in the
6 certificate of delinquency any amounts deferred under chapters 84.37
7 and 84.38 RCW that remain unpaid, including accrued interest and costs.

8 (4) The treasurer (~~shall~~) must file the certificates when
9 completed with the clerk of the court at no cost to the treasurer, and
10 the treasurer (~~shall~~) must thereupon, with legal assistance from the
11 county prosecuting attorney, proceed to foreclose in the name of the
12 county, the tax liens embraced in such certificates. Notice and
13 summons must be served or notice given in a manner reasonably
14 calculated to inform the owner or owners, and any person having a
15 recorded interest in or lien of record upon the property, of the
16 foreclosure action to appear within thirty days after service of such
17 notice and defend such action or pay the amount due. Either (a)
18 personal service upon the owner or owners and any person having a
19 recorded interest in or lien of record upon the property, or (b)
20 publication once in a newspaper of general circulation, which is
21 circulated in the area of the property and mailing of notice by
22 certified mail to the owner or owners and any person having a recorded
23 interest in or lien of record upon the property, or, if a mailing
24 address is unavailable, personal service upon the occupant of the
25 property, if any, is sufficient. If such notice is returned as
26 unclaimed, the treasurer (~~shall~~) must send notice by regular first-
27 class mail. The notice (~~shall~~) must include the legal description on
28 the tax rolls, the year or years for which assessed, the amount of tax
29 and interest due, and the name of owner, or reputed owner, if known,
30 and the notice must include the local street address, if any, for
31 informational purposes only. The certificates of delinquency issued to
32 the county may be issued in one general certificate in book form
33 including all property, and the proceedings to foreclose the liens
34 against the property may be brought in one action and all persons
35 interested in any of the property involved in the proceedings may be
36 made codefendants in the action, and if unknown may be therein named as
37 unknown owners, and the publication of such notice (~~shall be~~) is
38 sufficient service thereof on all persons interested in the property

1 described therein, except as provided above. The person or persons
2 whose name or names appear on the treasurer's rolls as the owner or
3 owners of the property (~~shall~~) must be considered and treated as the
4 owner or owners of the property for the purpose of this section, and if
5 upon the treasurer's rolls it appears that the owner or owners of the
6 property are unknown, then the property (~~shall~~) must be proceeded
7 against, as belonging to an unknown owner or owners, as the case may
8 be, and all persons owning or claiming to own, or having or claiming to
9 have an interest therein, are hereby required to take notice of the
10 proceedings and of any and all steps thereunder(~~---PROVIDED, That~~).
11 However, prior to the sale of the property, the treasurer (~~shall~~)
12 must order or conduct a title search of the property to be sold to
13 determine the legal description of the property to be sold and the
14 record title holder, and if the record title holder or holders differ
15 from the person or persons whose name or names appear on the
16 treasurer's rolls as the owner or owners, the record title holder or
17 holders (~~shall~~) must be considered and treated as the owner or owners
18 of the property for the purpose of this section, and (~~shall be~~) are
19 entitled to the notice provided for in this section. Such title search
20 (~~shall~~) must be included in the costs of foreclosure.

21 (5) If the title search required by subsection (4) of this section
22 reveals a lien in favor of the state for deferred taxes on the property
23 under RCW 84.37.070 or 84.38.100 and such deferred taxes are not
24 already included in the certificate of delinquency, the county
25 treasurer must issue an amended certificate of delinquency on the
26 property to include the outstanding amount of deferred taxes, including
27 accrued interest. The amended certificate of delinquency must be filed
28 with the clerk of the court as provided in subsection (4) of this
29 section.

30 (6) The county treasurer shall not sell property which is eligible
31 for deferral of taxes under chapter 84.38 RCW but shall require the
32 owner of the property to file a declaration to defer taxes under
33 chapter 84.38 RCW.

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