

HOUSE BILL REPORT

HB 2457

As Passed House:
February 10, 2016

Title: An act relating to recorded interests in easements by an electric utility.

Brief Description: Concerning recorded interests in easements by an electric utility.

Sponsors: Representative Young.

Brief History:

Committee Activity:

Judiciary: 2/2/16, 2/4/16 [DP].

Floor Activity:

Passed House: 2/10/16, 97-0.

Brief Summary of Bill

- Provides that if an electric utility has a recorded interest in an easement, any foreclosure of delinquent taxes on any tract of land subject to the easement, and any tax deed issued pursuant thereto, are subject to the easement regardless of when the easement was established.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 12 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Goodman, Hansen, Kirby, Klippert, Kuderer, Muri, Orwall and Stokesbary.

Staff: Cece Clynch (786-7195).

Background:

Tax Lien Foreclosure Sales.

After three years from the date of 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.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

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. 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. The minimum bid is the total amount of taxes, interest, and costs. 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. 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.

Status of Easements Following Tax Lien Foreclosure Sale.

Per statute, the general property tax assessed on any piece of real property includes an appurtenant easement, provided that the easement has been recorded with the county auditor. That same statute provides that any foreclosure of delinquent taxes on a piece of real property that is subject to the easement, and any tax deed that is issued following the sale, remains subject to the easement, provided the easement was established of record prior to the year for which the tax was foreclosed.

Summary of Bill:

If an electric utility has a recorded interest in an easement, any foreclosure of delinquent taxes on any tract of land subject to the easement, and the tax deed issued following sale, are subject to the easement regardless of when the easement was established.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This would provide that an easement negotiated by an electric utility would remain in place despite a tax foreclosure sale, thus protecting both the ratepayers and the general populace. Currently, an electric utility may negotiate an easement and then have to renegotiate an easement after the property goes into lien. Peninsula Light is a member-owned cooperative in its ninetieth year of operation, making it the second oldest electric utility in the state and the sixth oldest in the nation. Ninety percent of its members are residential. Many assets are located on private property. In one particular case, the utility reached an agreement on an easement only to find out that the property was in foreclosure for

delinquent taxes and the easement was ultimately no good because it had not been recorded earlier. There is a bill in the other body that also addresses this issue. The language in this House bill is preferred.

(Opposed) None.

Persons Testifying: Representative Young, prime sponsor; and Brian McLean, Peninsula Light Company.

Persons Signed In To Testify But Not Testifying: None.