

HOUSE BILL REPORT

ESHB 2647

As Passed House:
February 15, 2016

Title: An act relating to disposing tax foreclosed property to cities for affordable housing purposes.

Brief Description: Disposing tax foreclosed property to cities for affordable housing purposes.

Sponsors: House Committee on Community Development, Housing & Tribal Affairs (originally sponsored by Representatives Jinkins, Ryu, Fey, Santos and Frame).

Brief History:

Committee Activity:

Community Development, Housing & Tribal Affairs: 1/26/16, 2/2/16 [DPS].

Floor Activity:

Passed House: 2/15/16, 56-41.

Brief Summary of Engrossed Substitute Bill

- Requires counties holding tax foreclosed real property to offer to sell the property to the city in which it sits unless it is purchased by a public agency for a public purpose.
- Requires the city purchasing the property to agree to transfer the property to a housing authority or nonprofit entity eligible to receive assistance from the Affordable Housing Program.

HOUSE COMMITTEE ON COMMUNITY DEVELOPMENT, HOUSING & TRIBAL AFFAIRS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Ryu, Chair; Robinson, Vice Chair; Zeiger, Assistant Ranking Minority Member; Appleton, Hickel and Sawyer.

Minority Report: Without recommendation. Signed by 1 member: Representative Wilson, Ranking Minority Member.

Staff: David Rubenstein (786-7153).

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.

Background:

Tax Foreclosure Process.

Every county assesses and collects property taxes each year. The assessment of the tax creates a lien on the property until the tax is paid. If an owner does not pay on time, the taxes are delinquent and subject to a 12 percent interest rate charge as well as additional penalty charges that are added to the assessment. A tax lien takes priority over all other interests in the property, including a mortgage, judgment, debt, or obligation.

If real property taxes are delinquent for three years, the county treasurer must file a certificate of delinquency in the county superior court, which is used to initiate an action for foreclosure on the tax lien. After providing notice to the owner and all parties with a recorded interest in the property, the court may issue a judgment to foreclose the tax lien and order a tax foreclosure sale of the property.

A tax foreclosure sale must be made to the highest bidder at a public auction. The minimum bid is set on behalf of the county at the total amount of taxes due, including interest and penalties. The highest successful bidder must pay the amount of taxes owed and the county refunds the excess to the recorded owner of the property.

County Tax Title Lands.

If no bids are received at the tax foreclosure sale, the county is considered the bidder on the minimum amount and acquires the property as "tax title land." The county holds such property in trust for all the taxing districts, but does not pay the delinquent taxes. Tax title land is tax exempt during the period it is held by the county.

The county may sell tax title land when the sale is determined to be in the best interest of the county. The sale generally must follow the procedures of a tax foreclosure sale, including a public auction to the highest bidder. However, the county may choose to dispose of tax title lands by private negotiation and without a call for bids under the following circumstances:

- the sale is for a public purpose to any governmental agency;
- the county determines that it is not practicable to build on the property due to the physical characteristics or legal restrictions on the property;
- the property has been assessed for less than \$500 and is sold to an adjoining landowner; or
- the sale is made within 12 months from an attempted public sale where no acceptable bids were received.

The sale, under such circumstances, must be for no less than the principal amount of unpaid taxes.

Proceeds from a sale of tax title lands must be distributed in the following priority: (1) the amount to reimburse the county for the costs of foreclosure and sale; (2) any remainder to reimburse the state for any taxes deferred under a tax deferment program; and (3) the remainder to be justly apportioned among the tax districts.

Affordable Housing Program.

The Department of Commerce (Department) administers the Affordable Housing Program (AHP), which develops and coordinates public and private resources targeted to meet the affordable housing needs of households below 80 percent of a county's median family income. The AHP funds projects, including new construction, rehabilitation, or acquisition of housing for low-income households.

Organizations eligible to receive assistance include:

- local governments;
- local housing authorities;
- nonprofit community or neighborhood-based organizations;
- federally recognized Indian tribes in the state; and
- regional or statewide nonprofit housing assistance organizations.

These eligible organizations may receive loans to purchase land for affordable housing development and supportive services. These loans are funded through a program administered by the Housing Finance Commission in coordination with the Department.

Summary of Engrossed Substitute Bill:

Upon receiving tax title lands, the county must give notice to any city in which the property is located within 60 days of acquiring the property unless a public agency purchases the property for public purposes. The county may not dispose of the property before providing the notice. The notice must include an offer to the city to purchase the property for original minimum bid from the auction at which the county acquired the property under the following conditions:

- the city must accept the offer within 30 days of receiving notice, unless the county agrees to extend the offer;
- the city must provide that the property is suitable and will be used for affordable housing development; and
- the city must agree to transfer the property to an affordable housing authority or other nonprofit entity eligible to receive assistance from the AHP, which must reimburse the city for the amount the city paid to the county.

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) Affordable housing is an increasing challenge everywhere in this state, especially urban environments. This would be another tool in the toolbox that a jurisdiction could use to solve some affordable housing problems. Although this is a rare case, we should not allow good opportunities to go by. This bill would not affect the foreclosure process in any way.

(Opposed) None.

(Other) The language of the bill needs to be fixed such that counties are reimbursed for their costs, not just the unpaid taxes.

Persons Testifying: (In support) Representative Jenkins, prime sponsor; and Briahna Murray, City of Tacoma.

(Other) Monty Cobb, Washington Association of County Officials.

Persons Signed In To Testify But Not Testifying: None.