

SB 6205 - H AMD 1268

By Representative Kirby

1 On page 3, beginning on line 28, strike all of subsection (10) and
2 insert the following:

3 "(10)(a) If the highest amount bid for any separate unit tract
4 or lot exceeds the minimum bid due upon the whole property included
5 in the certificate of delinquency, the ~~((excess))~~ surplus funds must
6 be ~~((refunded))~~ distributed, following payment of all recorded
7 water-sewer district liens, on application therefor, to the ~~((record~~
8 ~~owner of the property. The record owner of the property is the~~
9 ~~person who held title on the date of issuance of the certificate of~~
10 ~~delinquency))~~ persons or entities with a recorded interest in or
11 lien of record upon the property eliminated by the tax sale under
12 this section, or to such persons or entities' heirs, assigns, or
13 attorney-in-fact acting under power of attorney, in the order of
14 priority that the recorded interest or lien of record attached to
15 the property as determined by the county treasurer in accordance
16 with this subsection (10). After any required payments to claimants
17 with a recorded interest in or lien of record upon the property, any
18 remaining surplus funds must be paid to the record owner of the
19 property, if the record owner submits a claim in accordance with
20 this subsection (10).

21 (b)(i) The county treasurer must determine the priority to any
22 surplus funds by reference to the title search report ordered or
23 conducted in accordance with RCW 84.64.050(4). At the county
24 treasurer's discretion, the county treasurer may require a claimant
25 to submit, and the county treasurer may consider, any other
26 information or proof the county treasurer deems necessary or

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1 appropriate to establish a claimant's rights to all or any portion
2 of the surplus funds.

3 (ii) The county treasurer may charge a claimant a fee in an
4 amount equal to the county treasurer's expected costs of determining
5 priority to and distributing any surplus funds.

6 (iii) After the expiration of one year from the date of the
7 recordation of the tax deed to the purchaser, if a claim or claims
8 for a payment of surplus funds are submitted to the county
9 treasurer, the county treasurer must promptly determine the priority
10 to any surplus funds and must mail notice, by first-class mail, to
11 all persons or entities who submitted a claim for a payment of
12 surplus funds, of the county treasurer's intent to distribute
13 surplus funds pursuant to this section. The county treasurer must
14 mail notice to claimants under this subsection (10)(b)(iii) only
15 once, and may not accept a claim for a payment of surplus funds more
16 than three years after the date of the tax sale or after surplus
17 funds are distributed to a claimant or claimants pursuant to this
18 subsection (10), whichever is sooner.

19 (iv) Upon the expiration of ninety days from the date the county
20 treasurer mails notice to claimants of the county treasurer's intent
21 to distribute surplus funds, and subject to (c) of this subsection,
22 the county treasurer must promptly distribute surplus funds to the
23 claimant or claimants the county treasurer determines have priority
24 to the surplus funds.

25 (c) No payment of surplus funds may be made pursuant to this
26 subsection (10):

27 (i) Sooner than one year following the recordation of the tax
28 deed to the purchaser;

29 (ii) Sooner than ninety days after the county treasurer mails
30 the notice of intent to distribute surplus funds to claimants in
31 accordance with subsection (10)(b)(iii) of this section;

32 (iii) While an appeal under RCW 84.64.120 is pending final
33 resolution by a court of law;

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1 (iv) While an action or proceeding initiated in accordance with
2 (d) of this subsection is pending final resolution by a court of
3 law; or

4 (v) To a person or entity who does not submit a claim for a
5 payment of the surplus funds to the county treasurer.

6 (d) Any action or proceeding to review a decision by a county
7 treasurer distributing surplus funds pursuant to this subsection
8 (10) must be:

9 (i) Commenced within ninety days after the date the notice of
10 the county treasurer's intent to distribute surplus funds is mailed
11 to claimants in accordance with (b)(iii) of this subsection; and

12 (ii) Filed in the superior court that gave judgment for the
13 taxes, interests, and costs that appeared due on the property
14 pursuant to subsection (3) of this section.

15 (e) For purposes of this section, the record owner of the
16 property is the person who held title to the property immediately
17 before title transferred to the tax sale purchaser in accordance
18 with subsection (11) of this section. Assignments of interests,
19 deeds, or other documents executed or recorded after filing the
20 certificate of delinquency do not affect the payment of excess funds
21 to the record owner. In the event that no claim for the excess is
22 received by the county treasurer within three years after the date
23 of the sale, the treasurer must at expiration of the three year
24 period deposit the excess in the current expense fund of the county,
25 which extinguishes all claims by any owner to the excess funds."

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EFFECT: Revises current law provisions governing the distribution of excess funds from a tax foreclosure sale. Removes provisions stating that excess funds remaining after payment of the tax debt and any water-sewer district liens must be paid to the record owner of the property if the record owner makes application for the excess funds, and that if the record owner does not claim the excess funds within three years, the treasurer must deposit the excess funds in the county current expense fund.

Provides instead that following a tax foreclosure sale, persons or entities with a recorded interest in or lien of record upon the

property have priority to the surplus funds remaining after payment of the tax debt and all recorded water-sewer district liens if they make a claim to the surplus funds. Provides that any remaining surplus funds must be paid to the record owner if the record owner submits a claim for the surplus funds. Revises the definition of "record owner" to mean the person who held title to the property immediately before title transferred to the tax sale purchaser, rather than the person who held title when the certificate of delinquency was issued.

Requires county treasurers to determine priority to the surplus funds and distribute surplus funds to lienholders and record owners who submit a claim and have a right to the funds, subject to the following parameters:

- The county treasurer must determine priority by reference to the title search report. The county treasurer may require a claimant to submit additional evidence as proof of a claim.
- The county treasurer may not determine priority to and distribute surplus funds prior to one year after the date of recordation of the tax deed to the purchaser.
- After expiration of the one-year waiting period, if a claim or claims for payment of surplus funds are submitted, the county treasurer must promptly determine priority to the surplus funds and mail a notice to each claimant that the county treasurer intends to distribute surplus funds.
- The county treasurer may not accept a claim for payment of surplus funds more than three years after the tax sale or after distribution of surplus funds to a claimant or claimants, whichever is sooner.
- The county treasurer may not distribute surplus funds until 90 days after mailing the required notice to the claimants. During this 90-day waiting period, a claimant may seek review of the county treasurer's decision regarding distribution by commencing an action in the superior court that issued the foreclosure judgment.
- In addition to the one-year and 90-day waiting periods, the county treasurer may not distribute surplus funds during the pendency of any court case appealing the underlying tax foreclosure sale or the county treasurer's notice of intent to distribute surplus funds.
- The county treasurer may impose a fee on claimants in an amount equal to the expected costs of determining priority and distributing funds.

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