

# HOUSE BILL REPORT

## E2SHB 1105

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### As Amended by the Senate

**Title:** An act relating to protecting taxpayers from home foreclosure.

**Brief Description:** Protecting taxpayers from home foreclosure.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Orwall, Ryu, Wylie, Pollet, Stanford and Frame).

**Brief History:**

**Committee Activity:**

Local Government: 1/18/19, 1/23/19 [DPS];

Appropriations: 2/4/19, 2/21/19 [DP2S(w/o sub LG)].

**Floor Activity:**

Passed House: 3/12/19, 59-38.

Senate Amended.

Passed Senate: 4/11/19, 44-3.

#### Brief Summary of Engrossed Second Substitute Bill

- Requires treasurers to annually distribute tax statements by March 15.
- Eliminates the 3 percent and 8 percent penalties imposed on delinquent tax payments.
- Requires county treasurers to provide the contact information of delinquent taxpayers to a homeownership resource center after the expiration of two years from the date of the property tax delinquency.
- Authorizes taxpayers to participate in payment agreements for delinquent taxes in any case where current or past taxes may be delinquent.
- Requires that all payments, received from a taxpayer participating in a payment agreement or making a partial tax payment for a delinquency, to be applied to the oldest delinquent year first unless the taxpayer requests otherwise.
- Prohibits property foreclosures on tax delinquencies totaling \$100 or less.
- Requires assessors to assist taxpayers in applying for the tax deferral or exemption program or by referring them to a homeowner resource center.

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*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.*

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## HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Pollet, Chair; Peterson, Vice Chair; Appleton and Senn.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Kraft, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Goehner.

**Staff:** Yvonne Walker (786-7841).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Local Government. Signed by 18 members: Representatives Ormsby, Chair; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Cody, Dolan, Fitzgibbon, Hansen, Hudgins, Jinkins, Macri, Pettigrew, Pollet, Ryu, Senn, Stanford, Sullivan, Tarleton and Tharinger.

**Minority Report:** Do not pass. Signed by 12 members: Representatives Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Dye, Hoff, Kraft, Mosbrucker, Schmick, Steele and Ybarra.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Sutherland.

**Staff:** Meghan Morris (786-7119).

### **Background:**

A county assessor is responsible for the calculation of property tax levies necessary to raise revenues for government services and administers a variety of tax exemptions, including the exemption and deferral programs for low income senior citizens and individuals with disabilities.

A county treasurer (treasurer) is the custodian of county money and the administrator of the county's financial transactions. Treasurers have many duties enumerated in statute, which include receiving and disbursing money, issuing receipts for money received, and maintaining financial records reflecting receipts and disbursements.

### Tax Statements and Payment Due Dates.

All real and personal property in Washington is subject to property tax, unless the law provides a specific exemption. All taxes due on real and personal property are due and payable to the treasurer. To avoid interest and penalties, at least half of the amount owed is due by April 30 and the balance is due by October 31. If the tax is less than \$50, the entire

payment must be paid in full by April 30. Delinquent tax payments are subject to interest and penalties.

Each treasurer is responsible for notifying each taxpayer of the amount of taxes owed on the taxpayer's property and for collecting all taxes levied on personal and real property in the county. Each tax statement must include a notice that payments are to be made payable to the treasurer or other appropriate office. There is no specified date in statute identifying when tax statements are required to be distributed to taxpayers.

#### Tax Delinquencies.

Delinquent tax payments are subject to interest and penalties. Interest is charged at a rate of 1 percent per month on the full amount due from the month of delinquency until the delinquency is paid in full. In addition, a 3 percent penalty is also imposed on the unpaid amount of current taxes on June 1 with an additional 8 percent penalty imposed on the unpaid amount of current taxes as of December 1.

Electronic billings and payments may be made on a monthly or, other periodic basis for delinquent tax year payments only or for prepayments of current tax.

#### Payment Options.

A treasurer may accept prepayments for current year taxes provided the payments are paid in full by the statutory tax payment due dates.

A treasurer may provide a payment agreement to a taxpayer for payment of any current or delinquent taxes owed. In instances where tax payments are past due, the treasurer may provide a payment agreement for payment of any past due delinquent taxes; however, a taxpayer cannot participate in the payment agreement for past year delinquencies if his or her current year taxes have not been paid timely. If a taxpayer participates in a payment agreement, the agreement must be signed by the taxpayer and the treasurer.

In addition to payment agreements, a treasurer may also accept partial payments of current and delinquent taxes, including any interest and penalties. If a taxpayer is successfully participating in a payment agreement or a partial payment program, the taxpayer may get relief from additional penalties and interest, and the county may not assess any additional penalties on delinquent taxes that are included within the payment agreement.

#### Tax Foreclosures.

Three years after the date real property taxes become delinquent, the treasurer is required to begin foreclosure action. The treasurer must issue a certificate of delinquency on the property for all years' taxes, interest, and costs, unless the treasurer elects to issue a certificate for fewer than all years' taxes, interest, and costs. The treasurer files the certificate of delinquency with the clerk of the court and, with the assistance of the local prosecuting attorney, institutes an action for foreclosure of the real property tax lien. A certificate of delinquency establishes that: the property was subject to property tax; the property was assessed as required by law; and the taxes or assessments were not paid at any time before the issuance of the certificate. Notice and summons of the foreclosure proceeding must be given to the property owner and any person having a recorded interest in, or lien of record upon, the property.

The superior court, in determining an action to foreclose on a tax lien, may enter an order for the sale of the affected property which allows the county treasurer to proceed with the sale of the property. The treasurer must sell the property through a public auction and upon sale of the property, a purchaser must pay all delinquent taxes, interest, or costs.

### **Summary of Engrossed Second Substitute Bill:**

Property tax statements are amended, payment options are expanded for delinquent taxpayers, penalties for delinquent payments are eliminated, and the foreclosure statutes are amended.

#### Tax Statements and Payment Due Dates.

County Treasurers must distribute tax statements, for the current year's taxes owed, to each taxpayer on or before March 15 provided that: (1) all local taxing budgets have been submitted to the county legislative authorities by November 30; (2) the county legislative authority has certified taxes levied to the county assessor by November 30; and (3) the county assessor has delivered the tax roll to the county treasurer by January 15.

#### Tax Delinquencies.

A treasurer must provide a notice to each taxpayer whose taxes are delinquent. The delinquent tax notices must specify where the taxpayer can obtain: (1) any current taxes or special assessments due, including any penalties and interest; (2) any delinquent taxes or assessments due, including any penalties and interest due; and (3) the contact information for the statewide foreclosure hotline as recommended by the Washington State Housing Finance Commission (HFC) in instances where the taxpayer directly pays his or her property taxes.

Within 90 days, after the expiration of two years from the date of a tax payer's delinquency, the treasurer must provide the name and address of the delinquent taxpayer to a homeowner resource center or any other designated local or state entity recommended by the HFC.

The 3 percent penalty imposed on June 1 and the 8 percent penalty imposed on December 1 for delinquent tax payments are eliminated.

Electronic billings and payments may be made for both delinquent tax year payments and for prepayments of current tax.

Upon request, county assessors must assist taxpayers, as applicable, in applying for the property tax exemption or tax deferral programs, or by referring them to a homeownership resource center. In addition, county treasurers and assessors must publicly display information about the property tax exemption and deferral programs in their office.

#### Payment Options.

Despite whether current year taxes are paid on a timely basis, taxpayers are authorized to participate in a payment agreement with the county treasurer for past due tax delinquencies.

All payments, received by a treasurer from a taxpayer participating in a payment agreement for a tax delinquency or making a partial tax payment for a delinquency, must be applied to

the oldest delinquent year first unless the taxpayer requests otherwise. In instances where a taxpayer is participating in a payment agreement for paying property taxes, the payment agreement must be signed by the taxpayer and either the treasurer or the treasurer's deputy.

#### Tax Foreclosures.

If a treasurer sells a foreclosure parcel at a public auction, the winning bidder is allowed no less than 48 hours to pay the winning bid by electronic fund transfer.

Treasurers are prohibited from filing a certificate of delinquency for a property foreclosure when the tax delinquency totals \$100 or less excluding interest and penalties. This prohibition does not apply to a parcels where a local government has declared the parcel a nuisance affecting public peace, safety, and welfare.

Other technical amendments, clarifications, and subtitles are added to the act.

#### **EFFECT OF SENATE AMENDMENT(S):**

##### The Senate amendment:

- provides that the county assessor may, rather than must, assist taxpayers in applying for the property tax exemption available to senior citizens and veterans or in applying for the property tax deferral program for retired persons, if the taxpayer requests assistance for payment of current year or delinquent taxes;
- provides that the county assessor must refer the taxpayer to the statewide foreclosure hotline recommended by the Washington State Housing Finance Commission, rather than a homeownership resource center, if the taxpayer requests assistance for payment of current year or delinquent taxes;
- requires that payments on past due taxes must include collection of the oldest delinquent year, which includes interest, penalties, and taxes within an 18-month period (instead of a 12-month period), prior to filing a certificate of delinquency;
- removes the provision eliminating penalties that accrue on unpaid property taxes and thereby restores such provisions to current law; and
- requires the county treasurer to waive all outstanding interest and penalties on delinquent taxes for one time only, if the property is subject to foreclosure, and the taxpayer is income-qualified and occupies the property as their principal place of residence.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect on January 1, 2020.

#### **Staff Summary of Public Testimony (Local Government):**

(In support) Property taxes and assessments are at a rate where many property owners on fixed incomes, including seniors and those that are disabled, are struggling financially. People who have inherited family homes have been on the verge of losing their homes due to not being able to afford to pay property taxes. In some jurisdictions property taxes have

increased by 30 percent. This bill is a result of a stakeholder group whose goal is to support and save taxpayers from possible home foreclosures as well as to ensure that the administration of taxes are handled uniformly throughout the state.

The bill: (1) requires that information regarding the foreclosure hotline appears on all tax statements; (2) redefines the terms of the payment plans to make it easier for taxpayers to participate in the plans; and (3) allows 48 hours after auction for housing agencies to secure funding thereby allowing them to be more competitive in obtaining affordable housing options.

This bill is supported by the treasurers as they work very hard to keep taxpayers out of foreclosure. The bill allows more flexibility for property tax payment plans and will help to keep people in their homes. However, the provision that requires the foreclosure hotline phone number to be printed on the initial tax statement should be eliminated. The phone number should only be printed on the delinquent notices as adding it to initial statements could be costly to counties.

The Housing Resource Center operates the statewide foreclosure hotline which has helped over 31,000 distressed homeowners connect to counseling and other assistance since its inception. People, especially those that own their homes outright, should not be losing their homes over property taxes. This bill increases taxpayer transparency and strengthens taxpayer protections. The creation of the activity accounts for counseling services and a housing referral hotline will help ensure counseling and services are available to homeowners who need assistance before it is too late to save their homes from foreclosure.

(Opposed) Although there is support for the programming in this bill, the main concern is that the funding source in this bill could have an impact on local government's budgets. The funds that are received from tax foreclosure sales vary dramatically from county to county and from year to year. This is a very volatile source of funding. Counties often use this funding to clear up backlogs and make necessary one-time purchases. A different funding source would be more beneficial to the program.

(Other) Many of the homes that end up in foreclosure are those instances where the owner owns the home outright. Currently, there is no uniformity around the state in how delinquent payments are collected as some counties offer payment plans and others do not. Delinquent taxpayers are often seniors or those with a disability who cannot work. If these homeowners were connected with resources early on in the process, then this would eliminate some of the stress.

**Staff Summary of Public Testimony (Appropriations):**

(In support) The statewide toll-free foreclosure prevention hotline (hotline) was created by the Foreclosure Fairness Act in 2011, helping over 31,000 distressed homeowners. In a state with such a demonstrated commitment to preventing foreclosure, people should not be losing their homes over property taxes. The difference between the value of the home and the amount of the property tax can sometimes be quite staggering. For example, a home valued at \$499,000 was in foreclosure for just \$11,500 in back taxes. From 2016 to 2018, tax

foreclosure calls to the hotline as a percentage of overall calls increased by about 41 percent. Callers have been disproportionately seniors.

The funding for counseling and legal aid through the Foreclosure Fairness Act can only be used for mortgage foreclosures, not tax lien foreclosures. With increased notice about the hotline and other provisions in this bill, the number of people looking for housing counseling and legal aid will vastly increase. This is good, but underscores the need for a funding source for these services.

The funding mechanisms for the hotline and counseling must be reasonable to implement. In the proposed second substitute, there is no longer a dwelling or parcel fee, but rather a foreclosure avoidance fee on billable property to fund the hotline, housing counseling, legal aid, and rescue loans. Those funds will be administered by the Department of Commerce similarly to the current Foreclosure Fairness Act. This piece is critical to the bill because it helps homeowners avoid losing their homes.

The bill provides a 48-hour limit to receive the money for a foreclosure which allows other providers to bid on properties. This applies only to the online auctions and will not adversely affect other proceeds for the auctions and the taxpayers who own those properties.

Treasurers already have the option to provide payment agreements to taxpayers, but the current year taxes need to be current. For instance, 2019 taxes must be current before treasurers could accept payment on previous delinquent years. This should be more flexible.

(Opposed) None.

**Persons Testifying (Local Government):** (In support) Representative Orwall, prime sponsor; Jeff Gadman, Office of the Thurston County Treasurer; Alishia Topper, Clark County; Jay Doran, Statewide Poverty Action Network; Anthony Evans; Denise Rodriguez, Washington Homeownership Resource Center; and Joanna Grist, American Association of Retired Persons.

(Opposed) Mellani McAleenan, Washington State Association of Counties.

(Other) Chelsea Hicks, Northwest Justice Project.

**Persons Testifying (Appropriations):** Denise Rodriguez, Washington Homeownership Resource Center; and Meredith Green, Kitsap County.

**Persons Signed In To Testify But Not Testifying (Local Government):** None.

**Persons Signed In To Testify But Not Testifying (Appropriations):** None.