

SENATE BILL REPORT

E2SHB 1105

As Passed Senate - Amended, April 11, 2019

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

Committee Activity: Local Government: 3/21/19, 3/26/19 [DPA].

Floor Activity:

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

Brief Summary of Bill (As Amended by Senate)

- Enacts measures for the purpose of protecting taxpayers from home foreclosure, including the required distribution of annual tax statements by March 15th and the provision of contact information of delinquent taxpayers to a homeownership resource center.

SENATE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass as amended.

Signed by Senators Takko, Chair; Salomon, Vice Chair; Short, Ranking Member; Honeyford and Lovelett.

Staff: Greg Vogel (786-7413)

Background: County Officials. 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

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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 30th, and the balance is due by October 31st. 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 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 1st with an additional 8 percent penalty imposed on the unpaid amount of current taxes as of December 1st.

Electronic billings and payments may be made on a monthly basis, 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 their current year taxes have not been timely paid. 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 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 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, and costs.

Summary of Amended 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. Treasurers must distribute tax statements, for the current year's taxes owed, to each taxpayer on or before March 15th, provided:

- all local taxing budgets have been submitted to the county legislative authorities by November 30th;
- the county legislative authority has certified taxes levied to the county assessor by November 30th; and
- the county assessor has delivered the tax roll to the county treasurer by January 15th.

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:

- any current taxes or special assessments due, including any penalties and interest;
- any delinquent taxes or assessments due, including any penalties and interest due; and
- 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 their 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.

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

Upon request, county assessors may assist taxpayers, as applicable, in applying for the property tax exemption or tax deferral programs, and must assist taxpayers by referring them to the statewide foreclosure hotline. In addition, treasurers and county 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 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. However, this prohibition does not apply to parcels where a local government has declared the parcel a nuisance affecting public peace, safety, and welfare.

Waiver of Interest and Penalties. Treasurers are required 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 under the \$40,000 threshold for the tax exemption available to senior citizens and service-connected disabled veterans, and the taxpayer occupies the property as their principal place of residence.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Engrossed Second Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The bill is looking to expand work around the housing hotline and home ownership counseling, and making sure people know these services are available. People should not be losing their homes to property taxes. Foreclosure actions disproportionately impact seniors, low-income individuals, and communities of color impacted by gentrification. Some treasurers do a lot of work in reaching out to homeowners but this does not happen in every county, or happens too late in the process. Every homeowner should have a chance to save their home and this bill gives them that chance.

CON: Counties and public hospital districts are very concerned about the elimination of penalties on delinquent taxes. With the penalty removed, this would be a an approximate \$26 million a year hit to counties. There is support for the underlying policies of the bill, and we would be neutral if the penalties were restored.

OTHER: Members should think very strongly when removing the penalties because of the large fiscal impact. If penalties were removed through payment agreements, this would keep the tax collection process whole and remove opportunity costs. The bill might have a positive effect for clients of the Northwest Justice Project, by providing additional notice of resources and new payment plan options.

Persons Testifying: PRO: Representative Tina Orwall, Prime Sponsor; Denise Rodriguez, WHRC; Karen Robinson, citizen.

CON: Mike Hoover, Washington State Association of Counties; Len McComb, Association of Washington Public Hospital Districts.

OTHER: Army Davis, Washington Association of County Treasurers; Joseph Jordan, Northwest Justice Project.

Persons Signed In To Testify But Not Testifying: No one.