
SUBSTITUTE SENATE BILL 5862

State of Washington

67th Legislature

2022 Regular Session

By Senate Housing & Local Government (originally sponsored by Senators Lovelett, Rivers, Fortunato, Gildon, Kuderer, Lovick, Nguyen, Nobles, Stanford, C. Wilson, and J. Wilson)

READ FIRST TIME 02/03/22.

1 AN ACT Relating to technical changes to the commercial property
2 assessed clean energy and resiliency program; amending RCW
3 36.165.060; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 36.165.060 and 2020 c 27 s 7 are each amended to
6 read as follows:

7 (1) The C-PACER lien amount plus any interest, penalties, and
8 charges accrued or accruing on the C-PACER lien:

9 (a) Takes precedence over all other liens or encumbrances except
10 a lien for taxes imposed by the state, a local government, or a
11 junior taxing district on real property, which liens for taxes shall
12 have priority over such benefit C-PACER lien, provided existing
13 mortgage holders, if any, have provided written consent described in
14 RCW 36.165.070; and

15 (b) Is a first and prior lien, second only to a lien for taxes
16 imposed by the state, a local government, or a junior taxing district
17 against the real property on which the C-PACER lien is imposed, from
18 the date on which the notice of the C-PACER lien is recorded until
19 the C-PACER lien, interest, penalties, and charges accrued or
20 accruing are paid.

1 (2) The C-PACER lien runs with the land, and that portion of the
2 C-PACER lien that has not yet become due is not accelerated or
3 eliminated by foreclosure of the C-PACER lien or any lien for taxes
4 imposed by the state, a local government, or junior taxing district
5 against the real property on which the C-PACER lien is imposed.

6 (3) Delinquent installments due on a C-PACER lien incur interest
7 and penalties as specified in the financing agreement.

8 (4) After the C-PACER lien is recorded as provided in this
9 section, the voluntary assessment and the C-PACER lien may not be
10 contested on the basis that the improvement is not a qualified
11 improvement or that the project is not a qualified project.

12 (5) ~~((Collection))~~ Billing, collection, and enforcement of
13 delinquent C-PACER liens or C-PACER ~~((financing installment payments,~~
14 ~~including foreclosure, shall remain))~~ assessment installments,
15 including through foreclosure as set forth in subsection (6) of this
16 section, are the responsibility of the capital provider.

17 ~~((The C-PACER lien shall be enforced by the capital provider~~
18 ~~at any time after one year from the date of delinquency in the same~~
19 ~~manner that the collection of delinquent real property taxes is~~
20 ~~enforced by the county under chapter 84.64 RCW, including the~~
21 ~~provisions of RCW 84.64.040, excepting that a sworn declaration by~~
22 ~~the capital provider or assignee attesting to the assessment~~
23 ~~delinquency of at least one year shall be used in lieu of the~~
24 ~~certificate required under RCW 84.64.050))~~ (a) The assessment and C-
25 PACER lien shall be assigned by the county to the capital provider at
26 the close of any approved C-PACER financing by the county, as
27 provided in RCW 36.165.050(3). The C-PACER lien, as assigned to the
28 capital provider shall maintain the same precedence and priority and
29 characteristics set forth in this section. The C-PACER lien may be
30 enforced with respect to delinquent C-PACER assessment installments
31 by the capital provider at any time after one year from the date of
32 delinquency, and may be foreclosed in the same manner as a mortgage
33 lien under chapter 61.12 RCW, except that no sale of the property
34 shall discharge or in any manner affect the priority of the C-PACER
35 lien with respect to installments not yet due and payable at the time
36 of sale, as provided in subsections (1)(b) and (2) of this section,
37 and no deficiency judgment may be sought by the capital provider with
38 respect to any unpaid assessment at the time of sale. The
39 participation of the county sheriff in any such foreclosure action
40 shall not be deemed in violation of, or inconsistent with, the

1 provisions of this chapter limiting the role of the county in the
2 enforcement of a C-PACER lien.

3 (b) In a foreclosure proceeding to collect delinquent C-PACER
4 assessment installments and enforce a C-PACER lien, the capital
5 provider shall have the right to collect delinquent interest and
6 penalties in the manner provided by the financing agreement. The
7 capital provider shall include, in any action to foreclose the C-
8 PACER lien, the amount of any outstanding liens for taxes imposed by
9 the state, a local government, or a junior taxing district against
10 the real property having priority over the C-PACER lien as provided
11 in subsection (1)(a) of this section, and the proceeds of any
12 foreclosure sale of the property shall be applied first to the
13 payment of such outstanding taxes to the extent necessary to satisfy
14 such lien, and then to the delinquent assessments, interest, and
15 penalties secured by the C-PACER lien.

16 (7) The capital provider may sell or assign, for consideration,
17 any and all liens received from the participating county. The capital
18 provider or their assignee shall have and possess the same powers and
19 rights at law or in equity to enforce the C-PACER lien in the same
20 manner as described in subsection (6) of this section.

21 NEW SECTION. Sec. 2. This act is necessary for the immediate
22 preservation of the public peace, health, or safety, or support of
23 the state government and its existing public institutions, and takes
24 effect immediately.

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