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HOUSE BILL 2265

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State of Washington                      65th Legislature                      2018 Regular Session

By Representatives Kirby, Vick, Volz, Graves, Blake, Barkis,  
Harmsworth, Bergquist, Springer, Haler, Steele, and Goodman

Prefiled 12/05/17.

1            AN ACT Relating to protecting lienholders' interests while  
2 retaining consumer protections; amending RCW 84.64.080 and 63.29.350;  
3 reenacting and amending RCW 63.29.010; creating new sections; and  
4 providing an expiration date.

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

6            NEW SECTION.    **Sec. 1.** (1) By November 1, 2019, and in compliance  
7 with RCW 43.01.036, a report must be submitted to the house business  
8 and financial services committee and the senate financial  
9 institutions and insurance committee or appropriate legislative  
10 committees by the county treasurers of the five largest counties in  
11 the state by population size as of the effective date of this section  
12 as determined by the office of financial management. The report must  
13 include the following information:

14            (a) From the effective date of this section to when the report is  
15 prepared, the total number of claims submitted to each of the five  
16 county treasurers for payments of surplus funds following a tax  
17 foreclosure sale conducted pursuant to chapter 84.64 RCW; and

18            (b) Of the total number of claims for payments of surplus funds  
19 identified in (a) of this subsection:

20            (i) The number of claims submitted by claimants with a recorded  
21 interest in or lien of record upon the property sold at the

1 foreclosure sale, compared to the number of claims submitted by  
2 claimants who held title to the property when the certificate of  
3 delinquency was issued; and

4 (ii) The number of claims paid to claimants with a recorded  
5 interest in or lien of record upon the property sold at the  
6 foreclosure sale, compared to the number of claims paid to claimants  
7 who held title to the property when the certificate of delinquency  
8 was issued.

9 (2) The treasurers of the counties required to submit a report  
10 under this section may coordinate and submit one report to the house  
11 and senate committees as required in this section.

12 (3) This section expires July 1, 2020.

13 **Sec. 2.** RCW 84.64.080 and 2015 c 95 s 12 are each amended to  
14 read as follows:

15 (1) The court must examine each application for judgment  
16 foreclosing a tax lien, and if a defense (specifying in writing the  
17 particular cause of objection) is offered by any person interested in  
18 any of the lands or lots to the entry of judgment, the court must  
19 hear and determine the matter in a summary manner, without other  
20 pleadings, and pronounce judgment. However, the court may, in its  
21 discretion, continue a case in which a defense is offered, to secure  
22 substantial justice to the contestants.

23 (2) In all judicial proceedings for the collection of taxes, and  
24 interest and costs thereon, all amendments which by law can be made  
25 in any personal action in the court must be allowed. No assessments  
26 of property or charge for any of the taxes is illegal on account of  
27 any irregularity in the tax list or assessment rolls, or on account  
28 of the assessment rolls or tax list not having been made, completed,  
29 or returned within the time required by law, or on account of the  
30 property having been charged or listed in the assessment or tax lists  
31 without name, or in any other name than that of the owner, and no  
32 error or informality in the proceedings of any of the officers  
33 connected with the assessment, levying or collection of the taxes,  
34 vitiates or in any manner affects the tax or the assessment of the  
35 tax. Any irregularities or informality in the assessment rolls or tax  
36 lists or in any of the proceedings connected with the assessment or  
37 levy of the taxes, or any omission or defective act of any officer  
38 connected with the assessment or levying of the taxes, may be, in the

1 discretion of the court, corrected, supplied, and made to conform to  
2 the law by the court.

3 (3) The court must give judgment for the taxes, interest, and  
4 costs that appear to be due upon the several lots or tracts described  
5 in the notice of application for judgment. The judgment must be a  
6 several judgment against each tract or lot or part of a tract or lot  
7 for each kind of tax included therein, including all interest and  
8 costs. The court must order and direct the clerk to make and enter an  
9 order for the sale of the real property against which judgment is  
10 made, or vacate and set aside the certificate of delinquency, or make  
11 such other order or judgment as in law or equity may be just. The  
12 order must be signed by the judge of the superior court and delivered  
13 to the county treasurer. The order is full and sufficient authority  
14 for the treasurer to proceed to sell the property for the sum set  
15 forth in the order and to take further steps provided by law.

16 (4) The county treasurer must immediately after receiving the  
17 order and judgment proceed to sell the property as provided in this  
18 chapter to the highest and best bidder. The acceptable minimum bid  
19 must be the total amount of taxes, interest, and costs.

20 (5) All sales must be made at a location in the county on a date  
21 and time (except Saturdays, Sundays, or legal holidays) as the county  
22 treasurer may direct, and continue from day to day (Saturdays,  
23 Sundays, and legal holidays excepted) during the same hours until all  
24 lots or tracts are sold. The county treasurer must first give notice  
25 of the time and place where the sale is to take place for ten days  
26 successively by posting notice thereof in three public places in the  
27 county, one of which must be in the office of the treasurer.

28 (6) Unless a sale is conducted pursuant to RCW 84.64.225, notice  
29 of a sale must be substantially in the following form:

30 TAX JUDGMENT SALE

31 Public notice is hereby given that pursuant to real property tax  
32 judgment of the superior court of the county of . . . . . in the  
33 state of Washington, and an order of sale duly issued by the court,  
34 entered the . . . . day of . . . . ., . . . ., in proceedings for  
35 foreclosure of tax liens upon real property, as per provisions of  
36 law, I shall on the . . . . day of . . . . ., . . . ., at . . . .  
37 o'clock a.m., at . . . . . in the city of . . . . ., and county  
38 of . . . . ., state of Washington, sell the real property to the

1 highest and best bidder for cash, to satisfy the full amount of  
2 taxes, interest and costs adjudged to be due.

3 In witness whereof, I have hereunto affixed my hand and seal  
4 this . . . . day of . . . . ., . . . . .

5 Treasurer of . . . . . county.

6 (7) As an alternative to the sale procedure specified in  
7 subsections (5) and (6) of this section, the county treasurer may  
8 conduct a public auction sale by electronic media pursuant to RCW  
9 84.64.225.

10 (8) No county officer or employee may directly or indirectly be a  
11 purchaser of the property at the sale.

12 (9) If any buildings or improvements are upon an area  
13 encompassing more than one tract or lot, the same must be advertised  
14 and sold as a single unit.

15 (10)(a) If the highest amount bid for any separate unit tract or  
16 lot exceeds the minimum bid due upon the whole property included in  
17 the certificate of delinquency, the ~~((excess))~~ surplus funds must be  
18 ~~((refunded))~~ distributed, following payment of all recorded water-  
19 sewer district liens, on application therefor, to the ~~((record owner~~  
20 ~~of the property. The record owner of the property is the person who~~  
21 ~~held title on the date of issuance of the certificate of~~  
22 ~~delinquency))~~ persons or entities with a recorded interest in or lien  
23 of record upon the property eliminated by the tax sale under this  
24 section, or to such persons or entities' heirs, assigns, or attorney-  
25 in-fact acting under power of attorney, in the order of priority that  
26 the recorded interest or lien of record attached to the property as  
27 determined by the county treasurer in accordance with this subsection  
28 (10). After any required payments to claimants with a recorded  
29 interest in or lien of record upon the property, any remaining  
30 surplus funds must be paid to the record owner of the property, if  
31 the record owner submits a claim in accordance with this subsection  
32 (10).

33 (b)(i) The county treasurer must determine the priority to any  
34 surplus funds by reference to the title search report ordered or  
35 conducted in accordance with RCW 84.64.050(4). At the county  
36 treasurer's discretion, the county treasurer may require a claimant  
37 to submit, and the county treasurer may consider, any other  
38 information or proof the county treasurer deems necessary or

1 appropriate to establish a claimant's rights to all or any portion of  
2 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 treasurer,  
9 the county treasurer must promptly determine the priority to any  
10 surplus funds and must mail notice, by first-class mail, to all  
11 persons or entities who submitted a claim for a payment of surplus  
12 funds, of the county treasurer's intent to distribute surplus funds  
13 pursuant to this section. The county treasurer must mail notice to  
14 claimants under this subsection (10)(b)(iii) only once, and may not  
15 accept a claim for a payment of surplus funds more than three years  
16 after the date of the tax sale or after surplus funds are distributed  
17 to a claimant or claimants pursuant to this subsection (10),  
18 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 the  
30 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;

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

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

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

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

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

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

21 (11) The county treasurer must execute to the purchaser of any  
22 piece or parcel of land a tax deed. The tax deed so made by the  
23 county treasurer, under the official seal of the treasurer's office,  
24 must be recorded in the same manner as other conveyances of real  
25 property, and vests in the grantee, his or her heirs and assigns the  
26 title to the property therein described, without further  
27 acknowledgment or evidence of the conveyance.

28 (12) Tax deeds must be substantially in the following form:

29  
30 State of Washington }  
31 } ss.  
32 County of ..... }

33  
34 This indenture, made this . . . . day  
35 of . . . . , . . . . , between . . . . , as treasurer  
36 of . . . . county, state of Washington, party of the first part,  
37 and . . . . , party of the second part:

38 Witnesseth, that, whereas, at a public sale of real property held  
39 on the . . . . day of . . . . , . . . . , pursuant to a real

1 property tax judgment entered in the superior court in the county  
2 of . . . . . on the . . . . . day of . . . . ., . . . . , in  
3 proceedings to foreclose tax liens upon real property and an order of  
4 sale duly issued by the court, . . . . . duly purchased in  
5 compliance with the laws of the state of Washington, the following  
6 described real property, to wit: (Here place description of real  
7 property conveyed) and that the . . . . . has complied with the  
8 laws of the state of Washington necessary to entitle (him, or her or  
9 them) to a deed for the real property.

10 Now, therefore, know ye, that, I . . . . ., county treasurer of  
11 the county of . . . . ., state of Washington, in consideration of  
12 the premises and by virtue of the statutes of the state of  
13 Washington, in such cases provided, do hereby grant and convey  
14 unto . . . . ., his or her heirs and assigns, forever, the real  
15 property hereinbefore described.

16 Given under my hand and seal of office this . . . . . day  
17 of . . . . ., A.D. . . . .

18 . . . . .  
19 County Treasurer.

20 **Sec. 3.** RCW 63.29.350 and 2012 c 117 s 181 are each amended to  
21 read as follows:

- 22 (1) It is unlawful for any person to:
- 23 (a) Seek or receive from any person or contract with any person  
24 for any fee or compensation for locating or purporting to locate any  
25 property which he or she knows has been reported or paid or delivered  
26 to the department of revenue pursuant to this chapter, ((or)) in  
27 excess of five percent of the value thereof returned to such owner;
- 28 (b) Seek or receive from or contract with any record owner of  
29 property who is a natural person who occupied the property at the  
30 time a certificate of delinquency on the property was issued in  
31 accordance with RCW 84.64.050, for any fee or compensation for  
32 locating or purporting to locate any funds held by a county that are  
33 proceeds from ((a)) the foreclosure for delinquent property taxes,  
34 assessments, or other liens, ((or, funds)) in excess of five percent  
35 of the value thereof returned to such owner; or
- 36 (c) Seek or receive from any person or contract with any person  
37 for any fee or compensation for locating or purporting to locate any  
38 funds not from the foreclosure for delinquent property taxes,  
39 assessments, or other liens described in (b) of this subsection that

1 are otherwise held by a county because of a person's failure to claim  
2 funds held as reimbursement for unowed taxes, fees, or other  
3 government charges, in excess of five percent of the value thereof  
4 returned to such owner. Any person violating this section is guilty  
5 of a misdemeanor and shall be fined not less than the amount of the  
6 fee or charge he or she has sought or received or contracted for, and  
7 not more than ten times such amount, or imprisoned for not more than  
8 thirty days, or both.

9 (2) The legislature finds that the practices covered by this  
10 section are matters vitally affecting the public interest for the  
11 purpose of applying the consumer protection act, chapter 19.86 RCW.  
12 Any violation of this section is not reasonable in relation to the  
13 development and preservation of business. It is an unfair or  
14 deceptive act in trade or commerce and an unfair method of  
15 competition for the purpose of applying the consumer protection act,  
16 chapter 19.86 RCW. Remedies provided by chapter 19.86 RCW are  
17 cumulative and not exclusive.

18 **Sec. 4.** RCW 63.29.010 and 2012 c 117 s 177 are each reenacted  
19 and amended to read as follows:

20 (~~(As used in this chapter, unless the context otherwise~~  
21 ~~requires~~)) The definitions in this section apply throughout this  
22 chapter unless the context clearly requires otherwise.

23 (1) "Apparent owner" means the person whose name appears on the  
24 records of the holder as the person entitled to property held,  
25 issued, or owing by the holder.

26 (2) "Attorney general" means the chief legal officer of this  
27 state referred to in chapter 43.10 RCW.

28 (3) "Banking organization" means a bank, trust company, savings  
29 bank, land bank, safe deposit company, private banker, or any  
30 organization defined by other law as a bank or banking organization.

31 (4) "Business association" means a nonpublic corporation, joint  
32 stock company, investment company, business trust, partnership, or  
33 association for business purposes of two or more individuals, whether  
34 or not for profit, including a banking organization, financial  
35 organization, insurance company, or utility.

36 (5) "Department" means the department of revenue established  
37 under RCW 82.01.050.



1 (6) "Domicile" means the state of incorporation of a corporation  
2 and the state of the principal place of business of an unincorporated  
3 person.

4 (7) "Fare card" means any pass or instrument, and value contained  
5 therein, purchased to utilize public transportation facilities or  
6 services. "Fare card" does not include "gift card" or "gift  
7 certificate" as those terms are defined in RCW 19.240.010.

8 (8) "Financial organization" means a savings and loan  
9 association, cooperative bank, building and loan association, or  
10 credit union.

11 (9) "Gift certificate" has the same meaning as in RCW 19.240.010.

12 (10) "Holder" means a person, wherever organized or domiciled,  
13 who is:

14 (a) In possession of property belonging to another;

15 (b) A trustee; or

16 (c) Indebted to another on an obligation.

17 (11) "Insurance company" means an association, corporation,  
18 fraternal or mutual benefit organization, whether or not for profit,  
19 which is engaged in providing insurance coverage, including accident,  
20 burial, casualty, credit life, contract performance, dental,  
21 fidelity, fire, health, hospitalization, illness, life (including  
22 endowments and annuities), malpractice, marine, mortgage, surety, and  
23 wage protection insurance.

24 (12) "Intangible property" does not include contract claims which  
25 are unliquidated but does include:

26 (a) Moneys, checks, drafts, deposits, interest, dividends, and  
27 income;

28 (b) Credit balances, customer overpayments, gift certificates,  
29 security deposits, refunds, credit memos, unpaid wages, unused  
30 airline tickets, and unidentified remittances, but does not include  
31 discounts which represent credit balances for which no consideration  
32 was given;

33 (c) Stocks, and other intangible ownership interests in business  
34 associations;

35 (d) Moneys deposited to redeem stocks, bonds, coupons, and other  
36 securities, or to make distributions;

37 (e) Liquidated amounts due and payable under the terms of  
38 insurance policies; and

39 (f) Amounts distributable from a trust or custodial fund  
40 established under a plan to provide health, welfare, pension,

1 vacation, severance, retirement, death, stock purchase, profit  
2 sharing, employee savings, supplemental unemployment insurance, or  
3 similar benefits.

4 (13) "Last known address" means a description of the location of  
5 the apparent owner sufficient for the purpose of the delivery of  
6 mail.

7 (14) "Natural person" means a human being.

8 (15) "Owner" means a depositor in the case of a deposit, a  
9 beneficiary in case of a trust other than a deposit in trust, a  
10 creditor, claimant, or payee in the case of other intangible  
11 property, or a person having a legal or equitable interest in  
12 property subject to this chapter or his or her legal representative.

13 ~~((15))~~ (16) "Person" means an individual, business association,  
14 state or other government, governmental subdivision or agency, public  
15 corporation, public authority, estate, trust, two or more persons  
16 having a joint or common interest, or any other legal or commercial  
17 entity.

18 ~~((16))~~ (17) "Record owner" means the person who held title to  
19 property immediately before title transferred to the tax sale  
20 purchaser in accordance with RCW 84.64.080(11).

21 (18) "State" means any state, district, commonwealth, territory,  
22 insular possession, or any other area subject to the legislative  
23 authority of the United States.

24 ~~((17))~~ (19) "Third party bank check" means any instrument drawn  
25 against a customer's account with a banking organization or financial  
26 organization on which the banking organization or financial  
27 organization is only secondarily liable.

28 ~~((18))~~ (20) "Utility" means a person who owns or operates for  
29 public use any plant, equipment, property, franchise, or license for  
30 the transmission of communications or the production, storage,  
31 transmission, sale, delivery, or furnishing of electricity, water,  
32 steam, or gas.

33 NEW SECTION. **Sec. 5.** The process established in section 2 of  
34 this act for distributing surplus funds from delinquent property tax  
35 sales applies only to surplus funds from tax sales of property  
36 occurring on or after the effective date of this section.

37 NEW SECTION. **Sec. 6.** If any provision of this act or its  
38 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

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