
SUBSTITUTE SENATE BILL 6005

State of Washington

65th Legislature

2018 Regular Session

By Senate Financial Institutions & Insurance (originally sponsored by Senators Mullet, Angel, Hobbs, Palumbo, Takko, Zeiger, and Wilson)

1 AN ACT Relating to protecting lienholders' interests while
2 retaining consumer protections; amending RCW 84.64.050, 84.64.080,
3 and 63.29.350; reenacting and amending RCW 63.29.010; creating new
4 sections; and 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 84.64.050 and 2013 c 221 s 12 are each amended to
14 read as follows:

15 (1) If the property upon which property taxes are delinquent is
16 residential real property, at least one hundred eighty days before
17 issuing a certificate of delinquency, the county treasurer must mail
18 notice to the record owner of the property. The notice must contain,
19 at a minimum, everything in the notice required by RCW 61.24.030. For
20 the purposes of this subsection, "residential real property" has the
21 same meaning as provided in RCW 61.24.005. Nothing in this subsection
22 affects the timeline or other requirements for tax foreclosures
23 established under this chapter.

24 (2) After the expiration of three years from the date of
25 delinquency, when any property remains on the tax rolls for which no
26 certificate of delinquency has been issued, the county treasurer must
27 proceed to issue certificates of delinquency on the property to the
28 county for all years' taxes, interest, and costs. However, the county
29 treasurer, with the consent of the county legislative authority, may
30 elect to issue a certificate for fewer than all years' taxes,
31 interest, and costs to a minimum of the taxes, interest, and costs
32 for the earliest year.

33 ~~((+2))~~ (3) Certificates of delinquency are prima facie evidence
34 that:

35 (a) The property described was subject to taxation at the time
36 the same was assessed;

37 (b) The property was assessed as required by law;

38 (c) The taxes or assessments were not paid at any time before the
39 issuance of the certificate;

1 (d) Such certificate has the same force and effect as a lis
2 pendens required under chapter 4.28 RCW.

3 (~~(3)~~) (4) The county treasurer may include in the certificate
4 of delinquency any assessments which are due on the property and are
5 the responsibility of the county treasurer to collect. However, if
6 the department of revenue has previously notified the county
7 treasurer in writing that the property has a lien on it for deferred
8 property taxes, the county treasurer must include in the certificate
9 of delinquency any amounts deferred under chapters 84.37 and 84.38
10 RCW that remain unpaid, including accrued interest and costs.

11 (~~(4)~~) (5) The treasurer must file the certificates when
12 completed with the clerk of the court at no cost to the treasurer,
13 and the treasurer must thereupon, with legal assistance from the
14 county prosecuting attorney, proceed to foreclose in the name of the
15 county, the tax liens embraced in such certificates. Notice and
16 summons must be served or notice given in a manner reasonably
17 calculated to inform the owner or owners, and any person having a
18 recorded interest in or lien of record upon the property, of the
19 foreclosure action to appear within thirty days after service of such
20 notice and defend such action or pay the amount due. Either (a)
21 personal service upon the owner or owners and any person having a
22 recorded interest in or lien of record upon the property, or (b)
23 publication once in a newspaper of general circulation, which is
24 circulated in the area of the property and mailing of notice by
25 certified mail to the owner or owners and any person having a
26 recorded interest in or lien of record upon the property, or, if a
27 mailing address is unavailable, personal service upon the occupant of
28 the property, if any, is sufficient. If such notice is returned as
29 unclaimed, the treasurer must send notice by regular first-class
30 mail. The notice must include the legal description on the tax rolls,
31 the year or years for which assessed, the amount of tax and interest
32 due, and the name of owner, or reputed owner, if known, and the
33 notice must include the local street address, if any, for
34 informational purposes only. The certificates of delinquency issued
35 to the county may be issued in one general certificate in book form
36 including all property, and the proceedings to foreclose the liens
37 against the property may be brought in one action and all persons
38 interested in any of the property involved in the proceedings may be
39 made codefendants in the action, and if unknown may be therein named
40 as unknown owners, and the publication of such notice is sufficient

1 service thereof on all persons interested in the property described
2 therein, except as provided above. The person or persons whose name
3 or names appear on the treasurer's rolls as the owner or owners of
4 the property must be considered and treated as the owner or owners of
5 the property for the purpose of this section, and if upon the
6 treasurer's rolls it appears that the owner or owners of the property
7 are unknown, then the property must be proceeded against, as
8 belonging to an unknown owner or owners, as the case may be, and all
9 persons owning or claiming to own, or having or claiming to have an
10 interest therein, are hereby required to take notice of the
11 proceedings and of any and all steps thereunder. However, prior to
12 the sale of the property, the treasurer must order or conduct a title
13 search of the property to be sold to determine the legal description
14 of the property to be sold and the record title holder, and if the
15 record title holder or holders differ from the person or persons
16 whose name or names appear on the treasurer's rolls as the owner or
17 owners, the record title holder or holders must be considered and
18 treated as the owner or owners of the property for the purpose of
19 this section, and are entitled to the notice provided for in this
20 section. Such title search must be included in the costs of
21 foreclosure.

22 ~~((+5))~~ (6) If the title search required by subsection ~~((+4))~~
23 (5) of this section reveals a lien in favor of the state for deferred
24 taxes on the property under RCW 84.37.070 or 84.38.100 and such
25 deferred taxes are not already included in the certificate of
26 delinquency, the county treasurer must issue an amended certificate
27 of delinquency on the property to include the outstanding amount of
28 deferred taxes, including accrued interest. The amended certificate
29 of delinquency must be filed with the clerk of the court as provided
30 in subsection ~~((+4))~~ (5) of this section.

31 ~~((+6))~~ (7) The county treasurer may not sell property that is
32 eligible for deferral of taxes under chapter 84.38 RCW but must
33 require the owner of the property to file a declaration to defer
34 taxes under chapter 84.38 RCW.

35 **Sec. 3.** RCW 84.64.080 and 2015 c 95 s 12 are each amended to
36 read as follows:

37 (1) The court must examine each application for judgment
38 foreclosing a tax lien, and if a defense (specifying in writing the
39 particular cause of objection) is offered by any person interested in

1 any of the lands or lots to the entry of judgment, the court must
2 hear and determine the matter in a summary manner, without other
3 pleadings, and pronounce judgment. However, the court may, in its
4 discretion, continue a case in which a defense is offered, to secure
5 substantial justice to the contestants.

6 (2) In all judicial proceedings for the collection of taxes, and
7 interest and costs thereon, all amendments which by law can be made
8 in any personal action in the court must be allowed. No assessments
9 of property or charge for any of the taxes is illegal on account of
10 any irregularity in the tax list or assessment rolls, or on account
11 of the assessment rolls or tax list not having been made, completed,
12 or returned within the time required by law, or on account of the
13 property having been charged or listed in the assessment or tax lists
14 without name, or in any other name than that of the owner, and no
15 error or informality in the proceedings of any of the officers
16 connected with the assessment, levying or collection of the taxes,
17 vitiates or in any manner affects the tax or the assessment of the
18 tax. Any irregularities or informality in the assessment rolls or tax
19 lists or in any of the proceedings connected with the assessment or
20 levy of the taxes, or any omission or defective act of any officer
21 connected with the assessment or levying of the taxes, may be, in the
22 discretion of the court, corrected, supplied, and made to conform to
23 the law by the court.

24 (3) The court must give judgment for the taxes, interest, and
25 costs that appear to be due upon the several lots or tracts described
26 in the notice of application for judgment. The judgment must be a
27 several judgment against each tract or lot or part of a tract or lot
28 for each kind of tax included therein, including all interest and
29 costs. The court must order and direct the clerk to make and enter an
30 order for the sale of the real property against which judgment is
31 made, or vacate and set aside the certificate of delinquency, or make
32 such other order or judgment as in law or equity may be just. The
33 order must be signed by the judge of the superior court and delivered
34 to the county treasurer. The order is full and sufficient authority
35 for the treasurer to proceed to sell the property for the sum set
36 forth in the order and to take further steps provided by law.

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

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

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

11 TAX JUDGMENT SALE

12 Public notice is hereby given that pursuant to real property tax
13 judgment of the superior court of the county of in the
14 state of Washington, and an order of sale duly issued by the court,
15 entered the day of,, in proceedings for
16 foreclosure of tax liens upon real property, as per provisions of
17 law, I shall on the day of,, at
18 o'clock a.m., at in the city of, and county
19 of, state of Washington, sell the real property to the
20 highest and best bidder for cash, to satisfy the full amount of
21 taxes, interest and costs adjudged to be due.

22 In witness whereof, I have hereunto affixed my hand and seal
23 this day of,

24 Treasurer of county.

25 (7) As an alternative to the sale procedure specified in
26 subsections (5) and (6) of this section, the county treasurer may
27 conduct a public auction sale by electronic media pursuant to RCW
28 84.64.225.

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

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

34 (10)(a) If the highest amount bid for any separate unit tract or
35 lot exceeds the minimum bid due upon the whole property included in
36 the certificate of delinquency, the ((~~excess~~)) surplus funds must be
37 ((~~refunded~~)) distributed, following payment of all recorded water-
38 sewer district liens, on application therefor, to the ((~~record owner~~)
39 ~~of the property. The record owner of the property is the person who~~

1 ~~held title on the date of issuance of the certificate of~~
2 ~~delinquency)) persons or entities with a recorded interest in or lien~~
3 ~~of record upon the property eliminated by the tax sale under this~~
4 ~~section, or to such persons or entities' heirs, assigns, or attorney-~~
5 ~~in-fact acting under power of attorney, in the order of priority that~~
6 ~~the recorded interest or lien of record attached to the property as~~
7 ~~determined by the county treasurer in accordance with this subsection~~
8 ~~(10). After any required payments to claimants with a recorded~~
9 ~~interest in or lien of record upon the property, any remaining~~
10 ~~surplus funds must be paid to the record owner of the property, if~~
11 ~~the record owner submits a claim in accordance with this subsection~~
12 ~~(10).~~

13 (b)(i) The county treasurer must determine the priority to any
14 surplus funds by reference to the title search report ordered or
15 conducted in accordance with RCW 84.64.050(4). At the county
16 treasurer's discretion, the county treasurer may require a claimant
17 to submit, and the county treasurer may consider, any other
18 information or proof the county treasurer deems necessary or
19 appropriate to establish a claimant's rights to all or any portion of
20 the surplus funds.

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

24 (iii) After the expiration of one year from the date of the
25 recordation of the tax deed to the purchaser, if a claim or claims
26 for a payment of surplus funds are submitted to the county treasurer,
27 the county treasurer must promptly determine the priority to any
28 surplus funds and must mail notice, by first-class mail, to all
29 persons or entities who submitted a claim for a payment of surplus
30 funds, of the county treasurer's intent to distribute surplus funds
31 pursuant to this section. The county treasurer must mail notice to
32 claimants under this subsection (10)(b)(iii) only once, and may not
33 accept a claim for a payment of surplus funds more than three years
34 after the date of the tax sale or after surplus funds are distributed
35 to a claimant or claimants pursuant to this subsection (10),
36 whichever is sooner.

37 (iv) Upon the expiration of ninety days from the date the county
38 treasurer mails notice to claimants of the county treasurer's intent
39 to distribute surplus funds, and subject to (c) of this subsection,
40 the county treasurer must promptly distribute surplus funds to the

1 claimant or claimants the county treasurer determines have priority
2 to the surplus funds.

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

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

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

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

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

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

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

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

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

26 (e) For purposes of this section, the record owner of the
27 property is the person who held title to the property immediately
28 before title transferred to the tax sale purchaser in accordance with
29 subsection (11) of this section. Assignments of interests, deeds, or
30 other documents executed or recorded after filing the certificate of
31 delinquency do not affect the payment of ((~~excess~~)) surplus funds to
32 the record owner. In the event that no claim for the ((~~excess~~—~~is~~))
33 surplus funds are received by the county treasurer within three years
34 after the date of the sale, the treasurer must at expiration of the
35 three year period deposit the ((~~excess~~)) surplus funds in the current
36 expense fund of the county, which extinguishes all claims by any
37 owner to the excess funds.

38 (11) The county treasurer must execute to the purchaser of any
39 piece or parcel of land a tax deed. The tax deed so made by the
40 county treasurer, under the official seal of the treasurer's office,

1 must be recorded in the same manner as other conveyances of real
2 property, and vests in the grantee, his or her heirs and assigns the
3 title to the property therein described, without further
4 acknowledgment or evidence of the conveyance.

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

6
7 State of Washington }
8 } ss.
9 County of..... }

11 This indenture, made this day
12 of,, between, as treasurer
13 of county, state of Washington, party of the first part,
14 and, party of the second part:

15 Witnesseth, that, whereas, at a public sale of real property held
16 on the day of,, pursuant to a real
17 property tax judgment entered in the superior court in the county
18 of on the day of,, in
19 proceedings to foreclose tax liens upon real property and an order of
20 sale duly issued by the court, duly purchased in
21 compliance with the laws of the state of Washington, the following
22 described real property, to wit: (Here place description of real
23 property conveyed) and that the has complied with the
24 laws of the state of Washington necessary to entitle (him, or her or
25 them) to a deed for the real property.

26 Now, therefore, know ye, that, I, county treasurer of
27 the county of, state of Washington, in consideration of
28 the premises and by virtue of the statutes of the state of
29 Washington, in such cases provided, do hereby grant and convey
30 unto, his or her heirs and assigns, forever, the real
31 property hereinbefore described.

32 Given under my hand and seal of office this day
33 of, A.D.

34
35 County Treasurer.

36 **Sec. 4.** RCW 63.29.350 and 2012 c 117 s 181 are each amended to
37 read as follows:

38 (1) It is unlawful for any person to:

1 (a) Seek or receive from any person or contract with any person
2 for any fee or compensation for locating or purporting to locate any
3 property which he or she knows has been reported or paid or delivered
4 to the department of revenue pursuant to this chapter, (~~or~~) in
5 excess of five percent of the value thereof returned to such owner;

6 (b) Seek or receive from or contract with any record owner of
7 property who is a natural person who occupied the property at the
8 time a certificate of delinquency on the property was issued in
9 accordance with RCW 84.64.050, for any fee or compensation for
10 locating or purporting to locate any funds held by a county that are
11 proceeds from ((a)) the foreclosure for delinquent property taxes,
12 assessments, or other liens, (~~or, funds~~) in excess of five percent
13 of the value thereof returned to such owner;

14 (c) Seek or receive from any person that is a nonrecord owner of
15 a property for any fee or compensation for locating or purporting to
16 locate any funds held by a county that are proceeds from a
17 foreclosure for delinquent property taxes, assessments, or other
18 liens in excess of thirty-five percent of the value thereof returned
19 to such person; or

20 (d) Seek or receive from any person or contract with any person
21 for any fee or compensation for locating or purporting to locate any
22 funds not from the foreclosure for delinquent property taxes,
23 assessments, or other liens described in (b) of this subsection that
24 are otherwise held by a county because of a person's failure to claim
25 funds held as reimbursement for unowed taxes, fees, or other
26 government charges, in excess of five percent of the value thereof
27 returned to such owner. Any person violating this section is guilty
28 of a misdemeanor and shall be fined not less than the amount of the
29 fee or charge he or she has sought or received or contracted for, and
30 not more than ten times such amount, or imprisoned for not more than
31 thirty days, or both.

32 (2) The legislature finds that the practices covered by this
33 section are matters vitally affecting the public interest for the
34 purpose of applying the consumer protection act, chapter 19.86 RCW.
35 Any violation of this section is not reasonable in relation to the
36 development and preservation of business. It is an unfair or
37 deceptive act in trade or commerce and an unfair method of
38 competition for the purpose of applying the consumer protection act,
39 chapter 19.86 RCW. Remedies provided by chapter 19.86 RCW are
40 cumulative and not exclusive.

1 **Sec. 5.** RCW 63.29.010 and 2012 c 117 s 177 are each reenacted
2 and amended to read as follows:

3 (~~As used in this chapter, unless the context otherwise~~
4 ~~requires~~) The definitions in this section apply throughout this
5 chapter unless the context clearly requires otherwise.

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

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

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

14 (4) "Business association" means a nonpublic corporation, joint
15 stock company, investment company, business trust, partnership, or
16 association for business purposes of two or more individuals, whether
17 or not for profit, including a banking organization, financial
18 organization, insurance company, or utility.

19 (5) "Department" means the department of revenue established
20 under RCW 82.01.050.

21 (6) "Domicile" means the state of incorporation of a corporation
22 and the state of the principal place of business of an unincorporated
23 person.

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

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

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

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

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

35 (b) A trustee; or

36 (c) Indebted to another on an obligation.

37 (11) "Insurance company" means an association, corporation,
38 fraternal or mutual benefit organization, whether or not for profit,
39 which is engaged in providing insurance coverage, including accident,
40 burial, casualty, credit life, contract performance, dental,

1 fidelity, fire, health, hospitalization, illness, life (including
2 endowments and annuities), malpractice, marine, mortgage, surety, and
3 wage protection insurance.

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

6 (a) Moneys, checks, drafts, deposits, interest, dividends, and
7 income;

8 (b) Credit balances, customer overpayments, gift certificates,
9 security deposits, refunds, credit memos, unpaid wages, unused
10 airline tickets, and unidentified remittances, but does not include
11 discounts which represent credit balances for which no consideration
12 was given;

13 (c) Stocks, and other intangible ownership interests in business
14 associations;

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

17 (e) Liquidated amounts due and payable under the terms of
18 insurance policies; and

19 (f) Amounts distributable from a trust or custodial fund
20 established under a plan to provide health, welfare, pension,
21 vacation, severance, retirement, death, stock purchase, profit
22 sharing, employee savings, supplemental unemployment insurance, or
23 similar benefits.

24 (13) "Last known address" means a description of the location of
25 the apparent owner sufficient for the purpose of the delivery of
26 mail.

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

28 (15) "Owner" means a depositor in the case of a deposit, a
29 beneficiary in case of a trust other than a deposit in trust, a
30 creditor, claimant, or payee in the case of other intangible
31 property, or a person having a legal or equitable interest in
32 property subject to this chapter or his or her legal representative.

33 ~~((15))~~ (16) "Person" means an individual, business association,
34 state or other government, governmental subdivision or agency, public
35 corporation, public authority, estate, trust, two or more persons
36 having a joint or common interest, or any other legal or commercial
37 entity.

38 ~~((16))~~ (17) "Record owner" means the person who held title to
39 property immediately before title transferred to the tax sale
40 purchaser in accordance with RCW 84.64.080(11).

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

4 (~~(17)~~) (19) "Third party bank check" means any instrument drawn
5 against a customer's account with a banking organization or financial
6 organization on which the banking organization or financial
7 organization is only secondarily liable.

8 (~~(18)~~) (20) "Utility" means a person who owns or operates for
9 public use any plant, equipment, property, franchise, or license for
10 the transmission of communications or the production, storage,
11 transmission, sale, delivery, or furnishing of electricity, water,
12 steam, or gas.

13 NEW SECTION. **Sec. 6.** The process established in section 3 of
14 this act for distributing surplus funds from delinquent property tax
15 sales applies only to surplus funds from tax sales of property
16 occurring on or after the effective date of this section.

17 NEW SECTION. **Sec. 7.** If any provision of this act or its
18 application to any person or circumstance is held invalid, the
19 remainder of the act or the application of the provision to other
20 persons or circumstances is not affected.

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