

RCW 36.165.060 C-PACER liens. (1) The C-PACER lien amount plus any interest, penalties, and charges accrued or accruing on the C-PACER lien:

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

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

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

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

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

(5) Billing, collection, and enforcement of delinquent C-PACER liens or C-PACER assessment installments, including through foreclosure as set forth in subsection (6) of this section, are the responsibility of the capital provider.

(6) (a) The assessment and C-PACER lien shall be assigned by the county to the capital provider at the close of any approved C-PACER financing by the county, as provided in RCW 36.165.050(3). The C-PACER lien, as assigned to the capital provider shall maintain the same precedence and priority and characteristics set forth in this section. The C-PACER lien may be enforced with respect to delinquent C-PACER assessment installments by the capital provider at any time after one year from the date of delinquency, and may be foreclosed in the same manner as a mortgage lien under chapter 61.12 RCW, except that no sale of the property shall discharge or in any manner affect the priority of the C-PACER lien with respect to installments not yet due and payable at the time of sale, as provided in subsections (1)(b) and (2) of this section, and no deficiency judgment may be sought by the capital provider with respect to any unpaid assessment at the time of sale. The participation of the county sheriff in any such foreclosure action shall not be deemed in violation of, or inconsistent with, the provisions of this chapter limiting the role of the county in the enforcement of a C-PACER lien.

(b) In a foreclosure proceeding to collect delinquent C-PACER assessment installments and enforce a C-PACER lien, the capital provider shall have the right to collect delinquent interest and penalties in the manner provided by the financing agreement. The capital provider shall include, in any action to foreclose the C-PACER lien, the amount of any outstanding liens for taxes imposed by the state, a local government, or a junior taxing district against the real property having priority over the C-PACER lien as provided in subsection (1)(a) of this section, and the proceeds of any foreclosure

sale of the property shall be applied first to the payment of such outstanding taxes to the extent necessary to satisfy such lien, and then to the delinquent assessments, interest, and penalties secured by the C-PACER lien.

(7) The capital provider may sell or assign, for consideration, any and all liens received from the participating county. The capital provider or their assignee shall have and possess the same powers and rights at law or in equity to enforce the C-PACER lien in the same manner as described in subsection (6) of this section. [2022 c 101 § 1; 2020 c 27 § 7.]

Effective date—2022 c 101: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 17, 2022]." [2022 c 101 § 2.]