
HOUSE BILL 1086

State of Washington

54th Legislature

1995 Regular Session

By Representatives Hickel and Appelwick; by request of Law Revision Commission

Read first time 01/12/95. Referred to Committee on Law and Justice.

1 AN ACT Relating to personal property liens and security interests;
2 amending RCW 61.12.162, 19.32.170, 60.08.040, 60.10.020, 60.10.040,
3 60.10.050, 60.34.040, 60.36.020, 60.36.050, 60.52.040, 60.72.040,
4 61.16.010, 61.16.020, and 61.16.030; adding new sections to chapter
5 60.10 RCW; recodifying RCW 61.12.162; decodifying RCW 61.12.164 and
6 61.12.165; and repealing RCW 61.16.060.

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

8 **Sec. 1.** RCW 61.12.162 and 1969 c 82 s 1 are each amended to read
9 as follows:

10 The provisions of chapter 61.12 RCW, (~~as now or hereafter~~
11 ~~amended,~~) so far as (~~the same shall be~~) they are applicable,
12 (~~shall~~) govern in actions for the judicial foreclosure of liens on
13 personal property excluded by RCW 62A.9-104 from the provisions of the
14 Uniform Commercial Code, Title 62A RCW. The lien holder may proceed
15 (~~upon his~~) on the lien; and if there (~~be~~) is a separate obligation
16 (~~in writing to pay the same,~~) secured by (~~said~~) the lien, (~~he~~)
17 the lienholder may bring suit (~~upon such separate promise. When he~~)
18 on the obligation. If the lienor proceeds on the (~~promise, if there~~
19 ~~be a specific agreement therein contained, for the payment of a certain~~

1 ~~sum, or there is a separate obligation for the said sum)) obligation,~~
2 ~~the court shall, in addition to ((a decree of sale of lien property))~~
3 ~~entering a decree foreclosing the lien, render judgment ((shall be~~
4 ~~rendered)) for the amount due ((upon said promise or other instrument,~~
5 ~~the payment of which is thereby secured;)) on the obligation. The~~
6 ~~decree shall direct the sale of the lien property, and if there is a~~
7 ~~judgment on an obligation and the proceeds of ((said)) the sale ((be))~~
8 ~~are insufficient ((under the execution)) to satisfy the judgment, the~~
9 ~~sheriff is authorized to proceed under the same execution and levy~~
10 ~~((upon)) on and sell other property of the lien debtor, not exempt from~~
11 ~~execution, for the sum remaining unsatisfied.~~

12 Redemption rights and the rights and interest of a purchaser for
13 value under this section are governed by RCW 60.10.040 and 60.10.050.

14 NEW SECTION. Sec. 2. A new section is added to chapter 60.10 RCW
15 to read as follows:

16 The provisions of chapter 61.12 RCW, so far as they are applicable,
17 shall also be available to a secured party seeking to enforce a
18 security interest by judicial proceedings as authorized by RCW 62A.9-
19 501(1). In such a proceeding, the court shall enter a judgment
20 foreclosing the security interest and shall render judgment for the
21 amount due on the secured obligation. The decree shall direct the sale
22 of property that is subject to the foreclosed security interest and is
23 within the court's jurisdiction, and if the proceeds of sale are
24 insufficient to satisfy the judgment, the sheriff is authorized to
25 proceed under the same execution and levy on other property of the
26 judgment debtor, not exempt from execution, for the sum remaining
27 unsatisfied.

28 The rights and interest of a purchaser for value are governed by
29 RCW 60.10.040 except as otherwise provided in Title 62A RCW.

30 Sec. 3. RCW 19.32.170 and 1969 c 82 s 10 are each amended to read
31 as follows:

32 Every operator of a locker shall have a lien upon all the property
33 of every kind in his possession for all lockers' rentals, processing,
34 handling or other charges due. Such lien may be foreclosed under the
35 procedures as provided in chapter 60.10 RCW ~~((and RCW 61.12.162))~~.

36 (1) Locker owners and operators shall not be responsible for
37 liability for violations of game or other laws by renters unless the

1 contents of the locker are under the control of the locker plant
2 operator.

3 **Sec. 4.** RCW 60.08.040 and 1969 c 82 s 11 are each amended to read
4 as follows:

5 The lien herein provided for may be enforced against all persons
6 having a junior or subsequent interest in any such chattel, by judicial
7 procedure or by summary procedure as set forth in chapter 60.10 RCW
8 (~~and RCW 61.12.162~~) within nine months after the filing of such lien
9 notice, and if no such action shall be commenced within such time such
10 lien shall cease.

11 **Sec. 5.** RCW 60.10.020 and 1991 c 33 s 3 are each amended to read
12 as follows:

13 Any lien upon personal property, excluded by RCW 62A.9-104 from the
14 provisions of the Uniform Commercial Code (Title 62A RCW), may be
15 foreclosed by: (1) An action in the district court having jurisdiction
16 in the district in which the property is situated in accordance with
17 RCW (~~61.12.162~~) 60.10.--- (RCW 61.12.162 as recodified by this act),
18 if the value of the claim does not exceed the jurisdictional limit of
19 the district court provided in RCW 3.66.020; or (2) an action in the
20 superior court having jurisdiction in the county in which the property
21 is situated in accordance with RCW (~~61.12.162~~) 60.10.--- (RCW
22 61.12.162 as recodified by this act), if the value of the claim exceeds
23 the jurisdictional limit of the district court provided in RCW
24 3.66.020; or (3) summary procedure as provided in this chapter.

25 **Sec. 6.** RCW 60.10.040 and 1969 c 82 s 5 are each amended to read
26 as follows:

27 When a lien is foreclosed in accordance with the provisions of
28 (~~RCW 61.12.162 and~~) this chapter, the disposition transfers to a
29 purchaser for value all of the lien debtor's rights therein, discharges
30 the lien under which it is made and any security interest or lien
31 subordinate thereto. The purchaser takes free of all such rights and
32 interests even though the lien holder fails to comply with the
33 requirements of this chapter (~~or of any judicial proceedings under RCW~~
34 ~~61.12.162~~):

1 (1) In the case of a public sale, if the purchaser has no knowledge
2 of any defects in the sale and if he does not buy in collusion with the
3 lien holder, other bidders or the person conducting the sale; or

4 (2) In any other case, if the purchaser acts in good faith.

5 **Sec. 7.** RCW 60.10.050 and 1969 c 82 s 6 are each amended to read
6 as follows:

7 At any time before the lien holder has disposed of collateral or
8 entered into a contract for its disposition under ((RCW 61.12.162 and))
9 this chapter, the lien debtor or any other secured party may redeem the
10 collateral by tendering fulfillment of all obligations to the holder
11 that are secured by the collateral as well as the expenses reasonably
12 incurred by the lien holder((~~7~~)) in holding and preparing the
13 collateral for disposition, in arranging for the sale, and ((his)) for
14 reasonable attorneys' fees and legal expenses.

15 **Sec. 8.** RCW 60.34.040 and 1969 c 82 s 12 are each amended to read
16 as follows:

17 The lien may be enforced within the same time and in the same
18 manner as mechanics' liens are foreclosed, when said lien is upon real
19 property, or in the same manner as provided in chapter 60.10 RCW ((and
20 RCW 61.12.162)) when the lien is upon personal property. The court may
21 allow as part of the costs of the action the money paid for filing or
22 recording the claim and a reasonable attorney fee.

23 **Sec. 9.** RCW 60.36.020 and 1969 c 82 s 19 are each amended to read
24 as follows:

25 Such liens may be enforced, in all cases of maritime contracts or
26 service, by a suit in admiralty, in rem, and the law regulating
27 proceedings in admiralty shall govern in all such suits; and in all
28 cases of contracts or service not maritime, by a civil action in any
29 superior court of this state as provided in RCW ((61.12.162)) 60.10.---
30 (RCW 61.12.162 as recodified by this act).

31 **Sec. 10.** RCW 60.36.050 and 1969 c 82 s 13 are each amended to read
32 as follows:

33 The liens hereby created may be foreclosed as provided in RCW
34 ((61.12.162)) 60.10.--- (RCW 61.12.162 as recodified by this act).

1 **Sec. 11.** RCW 60.52.040 and 1969 c 82 s 14 are each amended to read
2 as follows:

3 Liens under this chapter may be foreclosed as provided in chapter
4 60.10 RCW ((and RCW ~~61.12.162~~)).

5 **Sec. 12.** RCW 60.72.040 and 1969 c 82 s 15 are each amended to read
6 as follows:

7 Said lien may be foreclosed as provided in chapter 60.10 RCW ((and
8 RCW ~~61.12.162~~)).

9 **Sec. 13.** RCW 61.16.010 and 1897 c 23 s 1 are each amended to read
10 as follows:

11 Any person to whom any real estate ((~~or chattel~~)) mortgage is
12 given, or the assignee of any such mortgage, may, by an instrument in
13 writing, ((~~by him~~)) signed and acknowledged in the manner provided by
14 law entitling mortgages to be recorded, assign the same to the person
15 therein named as assignee, and any person to whom any such mortgage has
16 been so assigned, may, after the assignment has been recorded in the
17 office of the auditor of the county wherein such mortgage is of record,
18 acknowledge satisfaction of the mortgage, and discharge the same of
19 record.

20 **Sec. 14.** RCW 61.16.020 and 1985 c 44 s 13 are each amended to read
21 as follows:

22 Whenever the amount due on any mortgage is paid, the mortgagee((~~τ~~
23 ~~his~~)) or the mortgagee's legal representatives or assigns((~~τ~~)) shall,
24 at the request of any person interested in the property mortgaged,
25 execute an instrument in writing referring to the mortgage by the
26 volume and page of the record or otherwise sufficiently describing it
27 and acknowledging satisfaction in full thereof. Said instrument shall
28 be duly acknowledged, and upon request shall be recorded in the county
29 wherein the mortgaged property is situated. Every instrument of
30 writing heretofore recorded and purporting to be a satisfaction of
31 mortgage, which sufficiently describes the mortgage which it purports
32 to satisfy so that the same may be readily identified, and which has
33 been duly acknowledged before an officer authorized by law to take
34 acknowledgments or oaths, is hereby declared legal and valid, and a
35 certified copy of the record thereof is hereby constituted prima facie
36 evidence of such satisfaction.

1 **Sec. 15.** RCW 61.16.030 and 1984 c 14 s 1 are each amended to read
2 as follows:

3 If the mortgagee fails to acknowledge satisfaction of the mortgage
4 as provided in RCW 61.16.020 sixty days from the date of such request
5 or demand, ((he)) the mortgagee shall forfeit and pay to the mortgagor
6 damages and a reasonable attorneys' fee, to be recovered in any court
7 having competent jurisdiction, and said court, when convinced that said
8 mortgage has been fully satisfied, shall issue an order in writing,
9 directing the auditor to cancel said mortgage, and the auditor shall
10 immediately record the order and cancel the mortgage as directed by the
11 court, upon the margin of the page upon which the mortgage is recorded,
12 making reference thereupon to the order of the court and to the page
13 where the order is recorded.

14 NEW SECTION. **Sec. 16.** RCW 61.16.060 and 1937 c 133 s 2 are each
15 repealed.

16 NEW SECTION. **Sec. 17.** RCW 61.12.164 and 61.12.165 are each
17 decodified.

18 NEW SECTION. **Sec. 18.** RCW 61.12.162 is recodified in chapter
19 60.10 RCW to follow RCW 60.10.020.

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