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**SUBSTITUTE SENATE BILL 6109**

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**State of Washington**

**54th Legislature**

**1996 Regular Session**

**By** Senate Committee on Government Operations (originally sponsored by Senators Loveland and Winsley)

Read first time 1/24/96.

1 AN ACT Relating to county treasury management; amending RCW  
2 35.50.030, 35.50.040, 35.50.260, 36.36.045, 36.94.150, 56.16.100,  
3 57.08.080, and 53.36.050; and repealing RCW 36.29.150.

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

5 **Sec. 1.** RCW 35.50.030 and 1983 c 303 s 18 are each amended to read  
6 as follows:

7 If on the first day of January in any year, two installments of any  
8 local improvement assessment are delinquent, or if the final  
9 installment thereof has been delinquent for more than one year, the  
10 city or town shall proceed with the foreclosure of the delinquent  
11 assessment or delinquent installments thereof by proceedings brought in  
12 its own name in the superior court of the county in which the city or  
13 town is situate.

14 The proceedings shall be commenced on or before March 1st of that  
15 year or on or before such other date in such year as may be fixed by  
16 general ordinance, but not before the city or town treasurer has  
17 notified by certified mail the persons whose names appear on the  
18 assessment roll as owners of the property charged with the assessments  
19 or installments which are delinquent, at the address last known to the

1 treasurer, a notice thirty days before the commencement of the  
2 proceedings. If the person whose name appears on the tax rolls of the  
3 county assessor as owner of the property, or the address shown for the  
4 owner, differs from that appearing on the city or town assessment roll,  
5 then the treasurer shall also mail a copy of the notice to that person  
6 or that address.

7 The notice shall state the amount due, including foreclosure costs,  
8 upon each separate lot, tract, or parcel of land and the date after  
9 which the proceedings will be commenced. The city or town treasurer  
10 shall file with the clerk of the superior court at the time of  
11 commencement of the foreclosure proceeding the affidavit of the person  
12 who mailed the notices. This affidavit shall be conclusive proof of  
13 compliance with the requirements of this section.

14 **Sec. 2.** RCW 35.50.040 and 1965 c 7 s 35.50.040 are each amended to  
15 read as follows:

16 When the local improvement assessment is payable in installments,  
17 the enforcement of the lien of any installment shall not prevent the  
18 enforcement of the lien of any subsequent installment.

19 A city or town may by general ordinance provide that upon failure  
20 to pay any installment due the entire assessment shall become due and  
21 payable and the collection thereof enforced by foreclosure: PROVIDED,  
22 That the payment of all delinquent installments together with interest,  
23 penalty, and administrative costs at any time before entry of judgment  
24 in foreclosure shall extend the time of payment on the remainder of the  
25 assessments as if there had been no delinquency or foreclosure. Where  
26 foreclosure of two installments of the same assessment on any lot,  
27 tract, or parcel is sought, the city or town treasurer shall cause such  
28 lot, tract, or parcel to be dismissed from the action, if the  
29 installment first delinquent together with interest, penalty,  
30 administrative costs, and charges is paid at any time before sale.

31 **Sec. 3.** RCW 35.50.260 and 1983 c 303 s 21 are each amended to read  
32 as follows:

33 In foreclosing local improvement assessments the action shall be  
34 tried to the court without a jury. If the parties interested in any  
35 particular lot, tract, or parcel default, the court may enter judgment  
36 of foreclosure and sale as to such parties and lots, tracts, or parcels  
37 and the action may proceed as to the remaining defendants and lots,

1 tracts, or parcels. Judgment and order of sale may be entered as to  
2 any one or more separate lots, tracts, or parcels involved in the  
3 action and the court shall retain jurisdiction to others.

4 The judgment shall specify separately the amount of the  
5 installments with interest, penalty, and all reasonable administrative  
6 costs, including, but not limited to, the title searches, chargeable to  
7 each lot, tract, or parcel. The judgment shall have the effect of a  
8 separate judgment as to each lot, tract, or parcel described in the  
9 judgment, and any appeal shall not invalidate or delay the judgment  
10 except as to the property concerning which the appeal is taken. In the  
11 judgment the court shall order the lots, tracts, or parcels therein  
12 described sold by the city or town treasurer or by the county sheriff  
13 and an order of sale shall issue pursuant thereto for the enforcement  
14 of the judgment.

15 In all other respects, the trial, judgment, and appeals to the  
16 supreme court or the court of appeals shall be governed by the statutes  
17 governing the foreclosure of mortgages on real property.

18 Prior to the sale of the property, if the property is shown on the  
19 property tax rolls under unknown owner or if the property contains a  
20 residential structure having an assessed value of two thousand dollars  
21 or more, the treasurer shall order or conduct a title search of the  
22 property to determine the record title holders and all persons claiming  
23 a mortgage, deed of trust, or mechanic's, laborer's, materialmen's, or  
24 vendor's lien on the property.

25 At least thirty days prior to the sale of the property, a copy of  
26 the notice of sale shall be mailed by certified and regular mail to all  
27 defendants in the foreclosure action as to that parcel, lot, or tract  
28 and, if the owner is unknown or the property contains a residential  
29 structure having an assessed value of two thousand dollars or more, a  
30 copy of the notice of sale shall be mailed by regular and certified  
31 mail to any additional record title holders and persons claiming a  
32 mortgage, deed of trust, or mechanic's, laborer's, materialmen's, or  
33 vendor's lien on the property.

34 In all other respects the procedure for sale shall be conducted in  
35 the same manner as property tax sales described in RCW 84.64.080.

36 **Sec. 4.** RCW 36.36.045 and 1987 c 381 s 2 are each amended to read  
37 as follows:

1 The county shall have a lien for any delinquent fees imposed for  
2 the withdrawal of subterranean water or on-site sewage disposal, which  
3 shall attach to the property to which the fees were imposed, if the  
4 following conditions are met:

5 (1) At least eighteen months have passed since the first billing  
6 for a delinquent fee installment; and

7 (2) At least three billing notices and a letter have been mailed to  
8 the property owner, within the period specified in subsection (1) of  
9 this section, explaining that a lien may be imposed for any delinquent  
10 fee installment that has not been paid in that period.

11 The lien shall otherwise be subject to the provisions of chapter  
12 36.94 RCW related to liens for delinquent charges. The county shall  
13 record liens for any delinquent fees in the office of the county  
14 auditor. Failure on the part of the county to record the lien does not  
15 affect the validity of the lien.

16 **Sec. 5.** RCW 36.94.150 and 1975 1st ex.s. c 188 s 3 are each  
17 amended to read as follows:

18 All counties operating a system of sewerage and/or water shall have  
19 a lien for delinquent connection charges and charges for the  
20 availability of sewerage and/or water service, together with interest  
21 fixed by resolution at eight percent per annum from the date due until  
22 paid. Penalties of not more than ten percent of the amount due may be  
23 imposed in case of failure to pay the charges at times fixed by  
24 resolution. The lien shall be for all charges, interest, and penalties  
25 and shall attach to the premises to which the services were available.  
26 The lien shall be superior to all other liens and encumbrances, except  
27 general taxes and local and special assessments of the county.

28 The county department established in RCW 36.94.120 shall certify  
29 periodically the delinquencies to the (~~treasurer~~) auditor of the  
30 county at which time the lien shall attach.

31 Upon the expiration of sixty days after the attachment of the lien,  
32 the county may bring suit in foreclosure by civil action in the  
33 superior court of the county where the property is located. Costs  
34 associated with the foreclosure of the lien, including but not limited  
35 to advertising, title report, and personnel costs, shall be added to  
36 the lien upon filing of the foreclosure action. In addition to the  
37 costs and disbursements provided by statute, the court may allow the

1 county a reasonable attorney's fee. The lien shall be foreclosed in  
2 the same manner as the foreclosure of real property tax liens.

3 **Sec. 6.** RCW 56.16.100 and 1977 ex.s. c 300 s 6 are each amended to  
4 read as follows:

5 The commissioners shall enforce collection of the sewer connection  
6 charges and sewerage disposal service charges against property to which  
7 and its owners to whom the service is available, such charges being  
8 deemed charges against the property to which the service is available,  
9 by addition of penalties of not more than ten percent thereof in case  
10 of failure to pay the charges at times fixed by resolution. The  
11 commissioners may provide by resolution that where either sewer  
12 connection charges or sewer service charges are delinquent for any  
13 specified period of time, the district shall certify the delinquencies  
14 to the (~~treasurer~~) auditor of the county in which the real property  
15 is located, and the charges and any penalties added thereto and  
16 interest thereon at the rate fixed by resolution, shall be a lien  
17 against the property to which the service was available, subject only  
18 to the lien for general taxes.

19 **Sec. 7.** RCW 57.08.080 and 1982 1st ex.s. c 17 s 12 are each  
20 amended to read as follows:

21 The commissioners shall enforce collection of the water connection  
22 charges and rates and charges for water supplied against property  
23 owners connecting with the system and/or receiving such water, such  
24 charges being deemed charges against the property served, by addition  
25 of penalties of not more than ten percent thereof in case of failure to  
26 pay the charges at times fixed by resolution. The commissioners may  
27 provide by resolution that where either water connection charges or  
28 rates and charges for water supplied are delinquent for any specified  
29 period of time, the district shall certify the delinquencies to the  
30 (~~treasurer~~) auditor of the county in which the real property is  
31 located, and the charges and any penalties added thereto and interest  
32 thereon at the rate of not more than eight percent per year shall be a  
33 lien against the property upon which the service was received, subject  
34 only to the lien for general taxes.

35 **Sec. 8.** RCW 53.36.050 and 1959 c 52 s 2 are each amended to read  
36 as follows:

1       The county treasurer acting as port treasurer shall create a fund  
2 to be known as the "Port of . . . . . Fund," into which shall be paid  
3 all money received by him from the collection of taxes in behalf of  
4 such port district, and shall also maintain such other special funds as  
5 may be created by the port commission into which shall be placed such  
6 moneys as the port commission may by its resolution direct. All such  
7 port funds shall be deposited with the county depositories under the  
8 same restrictions, contracts and security as is provided by statute for  
9 county depositories and all interest collected on such port funds shall  
10 belong to such port district and shall be deposited to its credit in  
11 the proper port funds: PROVIDED, That any portion of such port moneys  
12 determined by the port commission to be in excess of the current needs  
13 of the port district may be invested (~~(in certificates, notes, bonds,~~  
14 ~~or other obligations of the United States of America, or any agency or~~  
15 ~~instrumentality thereof)) by the county treasurer in accordance with  
16 RCW 36.29.020, RCW 36.29.022, and chapter 39.59 RCW, and all interest  
17 collected thereon shall likewise belong to such port district and shall  
18 be deposited to its credit in the proper port funds.~~

19       NEW SECTION.   **Sec. 9.**   RCW 36.29.150 and 1963 c 4 s 36.29.150 are  
20 each repealed.

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