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**SECOND SUBSTITUTE HOUSE BILL 1105**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Orwall, Ryu, Wylie, Pollet, Stanford, and Frame)

AN ACT Relating to protecting taxpayers from home foreclosure; amending RCW 84.56.020, 84.64.225, 36.35.110, and 84.64.050; adding new sections to chapter 84.56 RCW; adding a new section to chapter 36.29 RCW; adding a new section to chapter 36.21 RCW; adding a new chapter to Title 36 RCW; and providing an effective date.

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

**Sec.**  RCW 84.56.020 and 2017 c 142 s 1 are each amended to read as follows:

**Treasurers' tax collection duties.**

(1) The county treasurer must be the receiver and collector of all taxes extended upon the tax rolls of the county, whether levied for state, county, school, bridge, road, municipal or other purposes, and also of all fines, forfeitures or penalties received by any person or officer for the use of his or her county. No treasurer may accept tax payments or issue receipts for the same until the treasurer has completed the tax roll for the current year's collection and provided notification of the completion of the roll. Notification may be accomplished electronically, by posting a notice in the office, or through other written communication as determined by the treasurer. All real and personal property taxes and assessments made payable by the provisions of this title are due and payable to the county treasurer on or before the thirtieth day of April and, except as provided in this section, are delinquent after that date.

**Tax statements.**

(2)(a) Tax statements for the current year's collection must be distributed to each taxpayer on or before March 15th provided that:

(i) All city and other taxing district budgets have been submitted to county legislative authorities by November 30th per RCW 84.52.020;

(ii) The county legislative authority in turn has certified taxes levied to the county assessor by November 30th per RCW 84.52.070; and

(iii) The county assessor has delivered the tax roll to the county treasurer by January 15th per RCW 84.52.080.

(b) Each tax statement must include a notice that checks for payment of taxes may be made payable to "Treasurer of . . . . . . County" or other appropriate office, but tax statements may not include any suggestion that checks may be made payable to the name of the individual holding the office of treasurer nor any other individual.

(c) Each tax statement distributed to an address must include a notice with information describing the:

(i) Property tax exemption program pursuant to RCW 84.36.379 through 84.36.389; and

(ii) Property tax deferral program pursuant to chapter 84.38 RCW.

**Tax payment due dates.**

**On-time tax payments: First-half taxes paid by April 30th and second-half taxes paid by October 31st.**

(3) When the total amount of tax or special assessments on personal property or on any lot, block or tract of real property payable by one person is fifty dollars or more, and if one-half of such tax is paid on or before the thirtieth day of April, the remainder of such tax is due and payable on or before the following thirty-first day of October and is delinquent after that date.

**Delinquent tax payments for current year: First-half taxes paid after April 30th.**

(4) When the total amount of tax or special assessments on any lot, block or tract of real property or on any mobile home payable by one person is fifty dollars or more, and if one-half of such tax is paid after the thirtieth day of April but before the thirty-first day of October, together with the applicable interest and penalty on the full amount of tax payable for that year, the remainder of such tax is due and payable on or before the following thirty-first day of October and is delinquent after that date.

**Delinquent tax payments: Interest, penalties, and treasurer duties.**

(5) Except as provided in (c) of this subsection, delinquent taxes under this section are subject to interest at the rate of twelve percent per annum computed on a monthly basis on the amount of tax delinquent from the date of delinquency until paid. Interest must be calculated at the rate in effect at the time of the tax payment, regardless of when the taxes were first delinquent. In addition, delinquent taxes under this section are subject to penalties as follows:

(a) A penalty of three percent of the amount of tax delinquent is assessed on the tax delinquent on June 1st of the year in which the tax is due.

(b) An additional penalty of eight percent is assessed on the delinquent tax amount on December 1st of the year in which the tax is due.

(c) If a taxpayer is successfully participating in a payment agreement under subsection ((~~(12)~~)) (15)(b) of this section or a partial payment program pursuant to subsection ((~~(13)~~)) (15)(c) of this section, the county treasurer may not assess additional penalties on delinquent taxes that are included within the payment agreement. Interest and penalties that have been assessed prior to the payment agreement remain due and payable as provided in the payment agreement.

(6) A county treasurer must provide notification to each taxpayer whose taxes have become delinquent under subsections (4) and (5) of this section. The delinquency notice must specify where the taxpayer can obtain:

(a) Any current tax or special assessments due as of the date of the notice;

(b) Any delinquent tax or special assessments due, including any penalties and interest, as of the date of the notice; and

(c) Where the taxpayer pays his or her property taxes directly, the contact information, including but not limited to the phone number, for the statewide foreclosure hotline recommended by the Washington state housing finance commission.

(7) Within ninety days, after the expiration of two years from the date of delinquency (when a taxpayer's taxes have become delinquent), the county treasurer must provide the name and property address of the delinquent taxpayer to a homeownership resource center or any other designated local or state entity recommended by the Washington state housing finance commission.

**Collection of foreclosure costs.**

(8)(a) When real property taxes become delinquent and prior to the filing of the certificate of delinquency, the treasurer is authorized to assess and collect tax foreclosure avoidance costs.

(b) ((~~For the purposes of this section, "tax foreclosure avoidance costs" means those direct costs associated with the administration of properties subject to and prior to foreclosure. Tax foreclosure avoidance costs include:~~

~~(i) Compensation of employees for the time devoted to administering the avoidance of property foreclosure; and~~

~~(ii) The cost of materials, services, or equipment acquired, consumed, or expended in administering tax foreclosure avoidance prior to the filing of a certificate of delinquency.~~

~~(c)~~)) When tax foreclosure avoidance costs are collected, such costs must be credited to the county treasurer service fund account, except as otherwise directed.

((~~(d)~~)) (c) For purposes of chapter 84.64 RCW, any taxes, interest, or penalties deemed delinquent under this section remain delinquent until such time as all taxes, interest, and penalties for the tax year in which the taxes were first due and payable have been paid in full.

((~~(7)~~)) **Periods of armed conflict.**

(9) Subsection (5) of this section notwithstanding, no interest or penalties may be assessed during any period of armed conflict regarding delinquent taxes imposed on the personal residences owned by active duty military personnel who are participating as part of one of the branches of the military involved in the conflict and assigned to a duty station outside the territorial boundaries of the United States.

((~~(8)~~)) **State of emergency.**

(10) During a state of emergency declared under RCW 43.06.010(12), the county treasurer, on his or her own motion or at the request of any taxpayer affected by the emergency, may grant extensions of the due date of any taxes payable under this section as the treasurer deems proper.

((~~(9)~~)) **Retention of funds from interest.**

(11) All collections of interest on delinquent taxes must be credited to the county current expense fund.

((~~(10)~~)) (12) For purposes of this chapter, "interest" means both interest and penalties.

((~~(11)~~)) **Retention of funds from property foreclosures and sales.**

(13) The direct cost of foreclosure and sale of real property, and the direct fees and costs of distraint and sale of personal property, for delinquent taxes, must, when collected, be credited to the operation and maintenance fund of the county treasurer prosecuting the foreclosure or distraint or sale; and must be used by the county treasurer as a revolving fund to defray the cost of further foreclosure, distraint, and sale because of delinquent taxes without regard to budget limitations and not subject to indirect costs of other charges.

((~~(12)(a)~~)) **Tax due dates and options for tax payment collections.**

**Electronic billings and payments.**

(14) For purposes of this chapter, and in accordance with this section and RCW 36.29.190, the treasurer may collect taxes, assessments, fees, rates, interest, and charges by electronic billing and payment. Electronic billing and payment may be used as an option by the taxpayer, but the treasurer may not require the use of electronic billing and payment. Electronic bill presentment and payment may be on a monthly or other periodic basis as the treasurer deems proper for:

(a) Delinquent tax year payments ((~~only or for~~)); and

(b) Prepayments of current tax.

**Tax payments.**

**Prepayment for current taxes.**

(15)(a) The treasurer may accept prepayments for current year taxes by any means authorized. All prepayments must be paid in full by the due date specified in ((~~(c) of this~~)) subsection (16) of this section. ((~~Payments on past due taxes must include collection of the oldest delinquent year, which includes interest and taxes within a twelve~~‑~~month period, prior to filing a certificate of delinquency under chapter 84.64 RCW or distraint pursuant to RCW 84.56.070.~~))

**Payment agreements for current year taxes.**

(b)(i) The treasurer may provide, by electronic means or otherwise, a payment agreement that provides for payment of current year taxes, inclusive of prepayment collection charges. The payment agreement must be signed by the taxpayer and treasurer or the treasurer's deputy prior to the sending of an electronic or alternative bill, which includes a payment plan for current year taxes.

**Payment agreements for delinquent year taxes.**

(ii)(A) The treasurer may provide, by electronic means or otherwise, a payment agreement for payment of past due delinquencies((~~, which must also require current year taxes to be paid timely~~)). The payment agreement must be signed by the taxpayer and treasurer or the treasurer’s deputy prior to the sending of an electronic or alternative bill, which includes a payment plan for ((~~current year taxes. The treasurer may accept partial payment of current and delinquent taxes including interest and penalties using electronic bill presentment and payments.~~

~~(c)~~)) past due delinquent taxes and charges.

(B) Tax payments received by a treasurer for delinquent year taxes from a taxpayer participating on a payment agreement must be applied first to the oldest delinquent year unless such taxpayer requests otherwise.

**Partial payments: Acceptance of partial payments for current and delinquent taxes.**

(c)(i) In addition to the payment agreement program in (b) of this subsection, the treasurer may accept partial payment of any current and delinquent taxes including interest and penalties by any means authorized including electronic bill presentment and payments.

(ii) All tax payments received by a treasurer for delinquent year taxes from a taxpayer paying a partial payment must be applied first to the oldest delinquent year unless such taxpayer requests otherwise.

**Payment for delinquent taxes.**

(d) Payments on past due taxes must include collection of the oldest delinquent year, which includes interest and taxes within a twelve-month period, prior to filing a certificate of delinquency under chapter 84.64 RCW or distraint pursuant to RCW 84.56.070.

**Due date for tax payments.**

(16) All taxes upon real and personal property made payable by the provisions of this title are due and payable to the treasurer on or before the thirtieth day of April and are delinquent after that date. The remainder of the tax is due and payable on or before the following thirty-first of October and is delinquent after that date. All other assessments, fees, rates, and charges are delinquent after the due date.

((~~(d)~~)) **Electronic funds transfers.**

(17) A county treasurer may authorize payment of:

(a) Any current property taxes due under this chapter by electronic funds transfers on a monthly or other periodic basis; and

(b) Any past due property taxes, penalties, and interest under this chapter by electronic funds transfers on a monthly or other periodic basis. Delinquent taxes are subject to interest and penalties, as provided in subsection (5) of this section. All tax payments received by a treasurer from a taxpayer paying delinquent year taxes must be applied first to the oldest delinquent year unless such taxpayer requests otherwise.

((~~(e)~~)) **Payment for administering prepayment collections.**

(18) The treasurer must pay any collection costs, investment earnings, or both on past due payments or prepayments to the credit of a county treasurer service fund account to be created and used only for the payment of expenses incurred by the treasurer, without limitation, in administering the system for collecting prepayments.

((~~(13) In addition to the payment program in subsection (12)(b) of this section, the treasurer may accept partial payment of current and delinquent taxes including interest and penalties by any means authorized.~~

~~(14) For purposes of this section unless the context clearly requires otherwise, the following definitions apply:~~))

**Definitions.**

(19) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Electronic billing and payment" means statements, invoices, or bills that are created, delivered, and paid using the internet. The term includes an automatic electronic payment from a person's checking account, debit account, or credit card.

(b) "Internet" has the same meaning as provided in RCW 19.270.010.

(c) "Tax foreclosure avoidance costs" means those direct costs associated with the administration of properties subject to and prior to foreclosure. Tax foreclosure avoidance costs include:

(i) Compensation of employees for the time devoted to administering the avoidance of property foreclosure; and

(ii) The cost of materials, services, or equipment acquired, consumed, or expended in administering tax foreclosure avoidance prior to the filing of a certificate of delinquency.

NEW SECTION. **Sec.**  (1) The county legislative authority must levy a foreclosure avoidance fee of fifty cents against each billable real property account that receives a tax statement. This "foreclosure avoidance fee" is distinct and separate from the "tax foreclosure avoidance costs" as defined in RCW 84.56.020.

(2) Each county must annually remit the receipts from the foreclosure avoidance fee collected during that year to the state treasurer for deposit in the homeowner protection account.

NEW SECTION. **Sec.**  A new section is added to chapter 84.56 RCW to read as follows:

(1) The homeowner protection account is created in the custody of the state treasurer. All receipts received under section 2 of this act must be deposited into the account. Only the director of the department of commerce or the director's designee may authorize expenditures from the account. Funding to agencies and organizations under this section must be provided by the department through an interagency agreement or other applicable contract instrument to fund the counselor referral hotline created under chapter 61.24 RCW, housing rescue loans, and housing counseling activities including legal aid. Priority for funds from the foreclosure avoidance fees in the homeowner protection account must be given to the counselor referral hotline created under chapter 61.24 RCW and housing counseling. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**Sec.**  RCW 84.64.225 and 2015 c 95 s 11 are each amended to read as follows:

(1) In lieu of the sale procedure specified in RCW 84.56.070 or 84.64.080, the county treasurer may conduct a public auction sale by electronic media as provided in RCW 36.16.145.

(2) Notice of a public auction sale by electronic media must be substantially in the following form:

TAX JUDGMENT SALE BY ELECTRONIC MEDIA

Public notice is hereby given that pursuant to a tax judgment of the superior court of the county of . . . . . . in the state of Washington, and an order of sale duly issued by the court, entered the . . . . day of . . . . . ., . . . ., in proceedings for foreclosure of tax liens, I shall on the . . . . day of . . . . . ., . . . ., commencing at . . . . o'clock . . ., at . . [specify web site address] . . . . ., sell the property to the highest and best bidder to satisfy the full amount of taxes, interest, and costs adjudged to be due. Prospective bidders must deposit . . . . to participate in bidding. A deposit paid by a winning bidder will be applied to the balance due. However, a winning bidder who does not comply with the terms of sale will forfeit the deposit. Deposits paid by nonwinning bidders will be refunded within ten business days of the close of the sale. Payment of deposits and a winning bid must be made by electronic funds transfer. In the case of an online public auction sale by electronic media as provided in RCW 36.16.145, a winning bidder is allowed no less than forty-eight hours to pay the winning bid by electronic funds transfer.

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

Treasurer of . . . . . county.

**Sec.**  RCW 36.35.110 and 2013 c 221 s 2 are each amended to read as follows:

(1) No claims are allowed against the county from any municipality, school district, road district or other taxing district for taxes levied on property acquired by the county by tax deed under the provisions of this chapter, but all taxes must at the time of deeding the property be thereby canceled. However, the proceeds of any sale of any property acquired by the county by tax deed must first be applied to reimburse the county for the costs of foreclosure and sale. The remainder of the proceeds, if any, must be applied to pay any amounts deferred under chapter 84.37 or 84.38 RCW on the property, including accrued interest, and outstanding at the time the county acquired the property by tax deed. The remainder of the proceeds, if any, must be justly apportioned to the various funds existing at the date of the sale, in the territory in which such property is located, according to the tax levies of the year last in process of collection.

(2) For purposes of this section, "costs of foreclosure and sale" means those costs of foreclosing on the property that, when collected, are subject to RCW 84.56.020((~~(9)~~)) (13), and the direct costs incurred by the county in selling the property.

**Sec.**  RCW 84.64.050 and 2013 c 221 s 12 are each amended to read as follows:

(1) Except as provided in subsection (7) of this section, after the expiration of three years from the date of delinquency, when any property remains on the tax rolls for which no certificate of delinquency has been issued, the county treasurer must proceed to issue certificates of delinquency on the property to the county for all years' taxes, interest, and costs. However, the county treasurer, with the consent of the county legislative authority, may elect to issue a certificate for fewer than all years' taxes, interest, and costs to a minimum of the taxes, interest, and costs for the earliest year.

(2) Certificates of delinquency are prima facie evidence that:

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

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

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

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

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

(4) The treasurer must file the certificates when completed with the clerk of the court at no cost to the treasurer, and the treasurer must thereupon, with legal assistance from the county prosecuting attorney, proceed to foreclose in the name of the county, the tax liens embraced in such certificates. Notice and summons must be served or notice given in a manner reasonably calculated to inform the owner or owners, and any person having a recorded interest in or lien of record upon the property, of the foreclosure action to appear within thirty days after service of such notice and defend such action or pay the amount due. Either (a) personal service upon the owner or owners and any person having a recorded interest in or lien of record upon the property, or (b) publication once in a newspaper of general circulation, which is circulated in the area of the property and mailing of notice by certified mail to the owner or owners and any person having a recorded interest in or lien of record upon the property, or, if a mailing address is unavailable, personal service upon the occupant of the property, if any, is sufficient. If such notice is returned as unclaimed, the treasurer must send notice by regular first-class mail. The notice must include the legal description on the tax rolls, the year or years for which assessed, the amount of tax and interest due, and the name of owner, or reputed owner, if known, and the notice must include the local street address, if any, for informational purposes only. The certificates of delinquency issued to the county may be issued in one general certificate in book form including all property, and the proceedings to foreclose the liens against the property may be brought in one action and all persons interested in any of the property involved in the proceedings may be made codefendants in the action, and if unknown may be therein named as unknown owners, and the publication of such notice is sufficient service thereof on all persons interested in the property described therein, except as provided above. The person or persons whose name or names appear on the treasurer's rolls as the owner or owners of the property must be considered and treated as the owner or owners of the property for the purpose of this section, and if upon the treasurer's rolls it appears that the owner or owners of the property are unknown, then the property must be proceeded against, as belonging to an unknown owner or owners, as the case may be, and all persons owning or claiming to own, or having or claiming to have an interest therein, are hereby required to take notice of the proceedings and of any and all steps thereunder. However, prior to the sale of the property, the treasurer must order or conduct a title search of the property to be sold to determine the legal description of the property to be sold and the record title holder, and if the record title holder or holders differ from the person or persons whose name or names appear on the treasurer's rolls as the owner or owners, the record title holder or holders must be considered and treated as the owner or owners of the property for the purpose of this section, and are entitled to the notice provided for in this section. Such title search must be included in the costs of foreclosure.

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

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

(7) Except those parcels where the local governing entity has declared and/or certified the parcel a nuisance affecting public peace, safety, and welfare, or other similar code provision, in no case may a certificate of delinquency be filed on property where the tax delinquency under chapter 84.56 RCW is one hundred dollars or less in total excluding interest and penalties.

NEW SECTION. **Sec.**  A new section is added to chapter 84.56 RCW to read as follows:

(1) If a taxpayer requests assistance for payment of current year or delinquent taxes, the county assessor, if applicable, must:

(a) Assist the taxpayer in applying for a property tax exemption program under RCW 84.36.379 through 84.36.389;

(b) Assist the taxpayer in applying for the property tax deferral program under chapter 84.38 RCW; or

(c) Refer the taxpayer to a homeownership resource center.

(2) A county treasurer may also refer a taxpayer requesting tax payment assistance to the county assessor's office under subsection (1) of this section.

NEW SECTION. **Sec.**  A new section is added to chapter 36.29 RCW to read as follows:

(1) The county treasurer must post a notice describing the:

(a) Property tax exemption program pursuant to RCW 84.36.379 through 84.36.389; and

(b) Property tax deferral program pursuant to chapter 84.38 RCW.

(2) The notice required under subsection (1) of this section must be posted in a location visible to the public.

NEW SECTION. **Sec.**  A new section is added to chapter 36.21 RCW to read as follows:

(1) The county assessor must post a notice describing the:

(a) Property tax exemption program pursuant to RCW 84.36.379 through 84.36.389; and

(b) Property tax deferral program pursuant to chapter 84.38 RCW.

(2) The notice required under subsection (1) of this section must be posted in a location visible to the public.

NEW SECTION. **Sec.**  Section 2 of this act constitutes a new chapter in Title 36 RCW.

NEW SECTION. **Sec.**  This act takes effect January 1, 2020.

**--- END ---**