

HOUSE BILL REPORT

ESSB 5131

As Passed House:
April 10, 2019

Title: An act relating to sales of manufactured/mobile or park model homes at county treasurer's foreclosure or distraint sales.

Brief Description: Regarding foreclosure and distraint sales of manufactured/mobile or park model homes.

Sponsors: Senate Committee on Housing Stability & Affordability (originally sponsored by Senators Takko, Short and Kuderer).

Brief History:

Committee Activity:

Civil Rights & Judiciary: 3/6/19, 3/15/19 [DP].

Floor Activity:

Passed House: 4/10/19, 95-0.

Brief Summary of Engrossed Substitute Bill

- Provides that when a manufactured/mobile or park model home is sold at a county treasurer's foreclosure or distraint sale, the registered owner of record, legal owner on title, and the purchaser are not required to sign the certificate of title and title application to transfer title.
- Extinguishes any lienholder interest in a manufactured/mobile or park model home sold at a county treasurer's foreclosure or distraint sale, provided that the lienholder is provided with specified notice.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: Do pass. Signed by 13 members: Representatives Jinkins, Chair; Irwin, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Goodman, Graham, Kilduff, Kirby, Klippert, Orwall, Shea, Valdez, Walen and Ybarra.

Staff: Cece Clynch (786-7195).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Manufactured Homes: Treated as Vehicles or Real Property Depending Upon the Circumstances.

A manufactured home is a structure designed and constructed to be transportable in one or more sections, built on a permanent chassis, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities that include plumbing, heating, and electrical systems.

A manufactured home situated on land that belongs to someone other than the homeowner must be titled by the Department of Licensing (DOL) as a vehicle, and it is taxed as personal property. In order to transfer ownership of a manufactured home through the DOL, the registered owner of record must sign the certificate of title releasing the owner's interest.

If the manufactured home is affixed to land owned by the homeowner, the manufactured home must either be titled by the DOL *or* the homeowner may choose to have the title eliminated or not issued. If the title is eliminated or not issued, the application must be recorded in the county property records of the county where the real property to which the home is affixed is located. In that case, the manufactured home is treated the same as a site-built structure, taxed as real property, and ownership is based on ownership of the real property through real property law.

Security Interests.

For purposes of perfecting and realizing upon security interests, manufactured homes are treated as follows:

1. If the title has not been eliminated, security interests in the manufactured home shall be perfected only under Article 9A of the Uniform Commercial Code if the manufactured home is held as inventory by a manufacturer or dealer *or* the DOL chapter on certificates of title in all other cases, and the lien shall be treated as securing personal property for purposes of realizing upon the security interest; *or*
2. If the title has been eliminated, a separate security interest in the manufactured home shall not exist, and the manufactured home shall only be secured as part of the real property through a mortgage, deed of trust, or real estate contract.

A lender is not required by law to consent to the elimination of title or to retitling of the manufactured home. Whether or not a lender is obligated to consent is governed solely by the agreement between the lender and the owner of the manufactured home.

Definitions.

- "Legal owner" means a person having a perfected security interest in a vehicle or the registered owner of a vehicle unencumbered by a security interest or the lessor of a vehicle unencumbered by a security interest.
- "Manufactured home" and "mobile home" are used interchangeably throughout both Title 46 RCW regarding Motor Vehicles and chapter 65.20 RCW regarding Classification of Manufactured Homes and have the very same definition in both titles.
- "Registered owner" means the person whose lawful right of possession of a vehicle has most recently been recorded with the DOL.
- "Park model home" is not defined in either chapter.

County Tax Foreclosure and Distraint Sales.

Three years after the date real property taxes become delinquent, the county treasurer must issue a certificate of delinquency on the property for all years' taxes, interest, and costs, unless the county treasurer elects to issue a certificate for fewer than all years' taxes, interest, and costs. 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 that remain unpaid, including accrued interest and costs. The county treasurer files the certificate of delinquency with the clerk of the court and, with the assistance of the local prosecuting attorney, institutes an action for foreclosure of the real property tax lien. Notice and summons of the foreclosure proceeding must be given to the property owner and any person having a recorded interest in, or lien of record upon, the property.

The superior court, in determining an action to foreclose on a tax lien, may: enter an order for the sale of the affected property; vacate and set aside the certificate of delinquency; or issue other relief or judgment as may be just. An order for the sale of the property allows the county treasurer authority to proceed with the sale of the property. The county treasurer must sell the property through a public auction, according to specified notice and time requirements, to the highest and best bidder for cash. The acceptable minimum bid is the total amount of due taxes, interest, and costs. The county treasurer issues a tax deed conveying title to the property to the winning bidder at the auction.

If the amount of the bid exceeds the amount of taxes, interest, and costs due, the excess funds must first be paid to satisfy all recorded water-sewer district liens, and any remaining excess funds must be paid to the record owner of the property if the record owner makes application for the excess funds. If the record owner does not apply for the excess funds within three years after the date of sale, the county treasurer must deposit the excess funds in the county current expense fund, and all claims by any owner to the excess funds are extinguished. Record owner means the person who held title to the property on the date of the issuance of the certificate of delinquency.

If personal property taxes are not paid before they become delinquent, the county treasurer must begin delinquent collection efforts by preparing papers in distraint. The papers must contain a description of the property, the amount of taxes, the amount of accrued interest, and the name of the owner. The county treasurer must then seize sufficient goods and chattel belonging to the person to pay the taxes, interest, and costs described in the distraint papers.

The county treasurer must advertise sale of the personal property by posting notice containing the time and place of the sale in three public places in the county, including the courthouse. If the taxes, interest, and costs are not paid before the date of the sale, the county treasurer must sell the property at public auction. Any amount received in excess of the amount sufficient to pay the taxes, interest, and costs must be paid to the owner of the property.

Summary of Bill:

When a manufactured/mobile or park model home is sold at a county treasurer's foreclosure or distraint sale, the registered owner of record, legal owner on title, and the purchaser are

not required to sign the certificate of title and title application to transfer title. Any lienholder interest in such a home is extinguished by the county treasurer's sale, provided that the lienholder has been provided a copy of the notice of the sale at his or her last known address, by registered letter, at least 30 days prior to the date of sale.

Any property taxes that were deferred must be included in the minimum sale amount for a distraint sale, as is already provided in current law with respect to foreclosure sales.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) When these foreclosure and distraint sales occur, the people are often long gone and cannot be found. This bill will make it easier to transfer this property. Last year, this bill made it all the way through the Senate and to the House floor. This bill cleans things up and makes the job of the county treasurer easier.

(Opposed) None.

Persons Testifying: Senator Takko, prime sponsor; and Arny Davis, Washington State Association of County Officials.

Persons Signed In To Testify But Not Testifying: None.