S-3517.1

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**SENATE BILL 5862**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Senators Lovelett, Rivers, Fortunato, Gildon, Kuderer, Lovick, Nguyen, Nobles, Stanford, C. Wilson, and J. Wilson

AN ACT Relating to technical changes to the commercial property assessed clean energy and resiliency program; and amending RCW 36.165.060.

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

**Sec.**  RCW 36.165.060 and 2020 c 27 s 7 are each amended to read as follows:

(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) Collection and enforcement of delinquent C-PACER liens or C-PACER financing installment payments, including foreclosure, shall remain the responsibility of the capital provider.

(6)(a) The C-PACER lien shall be enforced by the capital provider at any time after one year from the date of delinquency in the same manner that the collection of delinquent real property taxes is enforced by the county and county treasurer under chapter 84.64 RCW, including the provisions of RCW 84.64.040, excepting that ((~~a~~)):

(i) A sworn declaration by the capital provider or assignee attesting to the assessment delinquency of at least one year shall be used in lieu of the certificate required under RCW 84.64.050; and

(ii) Any action or obligation under RCW 84.64.080, including the issuance of a tax deed, that cannot be undertaken by the capital provider or assignee shall be performed by the county or county treasurer. These duties facilitate the enforcement of the C-PACER lien by the capital provider or assignee, as applicable, and shall not constitute prohibited enforcement activities under RCW 36.165.110.

(b) Any amounts received by the county or county treasurer related to delinquent installments due on a C-PACER lien, whether by sale or redemption, shall be remitted to the capital provider or assignee, as applicable.

(c) All costs that may be incurred by the county or county treasurer from activities taken pursuant to this section shall be reimbursed by the capital provider or assignee, as applicable, to the county or county treasurer.

(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.

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