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HOUSE BILL 1421

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State of Washington

63rd Legislature

2013 Regular Session

By Representatives Tharinger and Nealey; by request of Department of Revenue

Read first time 01/25/13. Referred to Committee on Finance.

1 AN ACT Relating to protecting the state's interest in collecting  
2 deferred property taxes; amending RCW 35.49.160, 36.35.110, 36.35.140,  
3 36.35.190, 36.35.220, 36.35.250, 84.37.070, 84.38.100, 84.38.140,  
4 84.60.010, and 84.64.050; and adding a new section to chapter 84.64  
5 RCW.

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

7 **Sec. 1.** RCW 35.49.160 and 1965 c 7 s 35.49.160 are each amended to  
8 read as follows:

9 Whenever property struck off to or bid in by a county at a sale for  
10 general taxes is subsequently sold by the county, the proceeds of the  
11 sale (~~shall~~) must first be applied to discharge in full the lien or  
12 liens for general taxes for which property was sold and the amount of  
13 taxes deferred under chapter 84.37 or 84.38 RCW and outstanding at the  
14 time the county acquired the property by tax deed, including accrued  
15 interest; the remainder, or such portion thereof as may be necessary,  
16 (~~shall~~) must be paid to the city or town to discharge all local  
17 improvement assessment liens against the property; and the surplus, if  
18 any, (~~shall~~) must be distributed among the proper county funds.

1       **Sec. 2.** RCW 36.35.110 and 1961 c 15 s 84.64.230 are each amended  
2 to read as follows:

3       No claims (~~(shall ever be)~~) are allowed against the county from any  
4 municipality, school district, road district or other taxing district  
5 for taxes levied on property acquired by the county by tax deed under  
6 the provisions of this chapter, but all taxes shall at the time of  
7 deeding said property be thereby canceled(~~(:—PROVIDED, That)~~).  
8 However, the proceeds of any sale of any property acquired by the  
9 county by tax deed (~~(shall be)~~) must first be applied to pay any  
10 amounts deferred under chapter 84.37 or 84.38 RCW on the property,  
11 including accrued interest, and outstanding at the time the county  
12 acquired the property by tax deed. The remainder of the proceeds, if  
13 any, must be justly apportioned to the various funds existing at the  
14 date of the sale, in the territory in which such property is located,  
15 according to the tax levies of the year last in process of collection.

16       **Sec. 3.** RCW 36.35.140 and 1961 c 15 s 84.64.310 are each amended  
17 to read as follows:

18       The board of county commissioners of any county may, pending sale  
19 of any county property acquired by foreclosure of delinquent taxes or  
20 amounts deferred under chapter 84.37 or 84.38 RCW, rent any portion  
21 thereof on a tenancy from month to month. From the proceeds of the  
22 rentals the board of county commissioners (~~(shall)~~) must first pay all  
23 expense in management of said property and in repairing, maintaining  
24 and insuring the improvements thereon(~~(, and)~~). The balance of said  
25 proceeds (~~(shall)~~) must first be paid to the department of revenue in  
26 the amount of any taxes deferred under chapter 84.37 or 84.38 RCW on  
27 the property, including accrued interest, outstanding at the time the  
28 county acquired the property by tax deed, and then to the various  
29 taxing units interested in the taxes levied against said property in  
30 the same proportion as the current tax levies of the taxing units  
31 having levies against said property.

32       **Sec. 4.** RCW 36.35.190 and 2009 c 549 s 4076 are each amended to  
33 read as follows:

34       (1) Any person, firm or corporation who or which may have been  
35 entitled to redeem the property involved prior to the issuance of the  
36 treasurer's deed to the county, and his or her or its successor in

1 interest, (~~shall have~~) has the right, at any time after the  
2 commencement of, and prior to the judgment in the action authorized  
3 herein, to redeem such property by paying to the county treasurer:

4 (a) The amount of any taxes deferred under chapter 84.37 or 84.38  
5 RCW on the property, including accrued interest, outstanding at the  
6 time the county acquired the property by tax deed;

7 (b) The amount of the taxes for which the property was sold to the  
8 county, and the amount of any other general taxes which may have  
9 accrued prior to the issuance of said treasurer's deed, together with  
10 interest on all such taxes from the date of delinquency thereof,  
11 respectively, at the rate of twelve percent per annum(~~, and by~~  
12 paying));

13 (c) For the benefit of the assessment district concerned the amount  
14 of principal, penalty and interest of all special assessments, if any,  
15 which (~~shall~~) have been levied against such property (~~and by~~  
16 paying)); and

17 (d) Such proportional part of the costs of the tax or tax deferral  
18 foreclosure proceedings and of the action herein authorized as the  
19 county treasurer (~~shall~~) determines.

20 (2) Upon redemption of any property before judgment as herein  
21 provided, the county treasurer shall issue to the redemptioner a  
22 certificate specifying the amount of the taxes, including amounts  
23 deferred under chapters 84.37 and 84.38 RCW, special assessments,  
24 penalty, interest and costs charged describing the land and stating  
25 that the taxes, including any applicable deferred taxes, special  
26 assessments, penalty, interest and costs specified have been fully  
27 paid, and the liens thereof discharged. Such certificate shall clear  
28 the land described therein from any claim of the county based on the  
29 treasurer's deed previously issued in the tax or tax deferral  
30 foreclosure proceedings.

31 **Sec. 5.** RCW 36.35.220 and 2009 c 549 s 4077 are each amended to  
32 read as follows:

33 Any person filing a statement in such action (~~shall~~) must pay the  
34 clerk of the court an appearance fee in the amount required by the  
35 county for appearances in civil actions, and (~~shall be~~) is required  
36 to tender the amount of all taxes, including any amounts deferred under

1 chapter 84.37 or 84.38 RCW, interest and costs charged against the real  
2 property to which he or she lays claim, and no further costs in such  
3 action (~~shall~~) may be required or recovered.

4 **Sec. 6.** RCW 36.35.250 and 1998 c 106 s 19 are each amended to read  
5 as follows:

6 Nothing in RCW 36.35.160 through 36.35.270 contained (~~shall~~) may  
7 be construed to deprive any city, town, or other unit of local  
8 government that imposed special assessments on the property by  
9 including the property in a local improvement or special assessment  
10 district of its right to reimbursement for special assessments out of  
11 any surplus over and above the taxes, including amounts deferred under  
12 chapters 84.37 and 84.38 RCW, interest and costs involved.

13 **Sec. 7.** RCW 84.37.070 and 2010 c 161 s 1167 are each amended to  
14 read as follows:

15 Whenever a person's special assessment or real property tax  
16 obligation, or both, is deferred under this chapter, the amount  
17 deferred and required to be paid pursuant to RCW 84.38.120 (~~shall~~)  
18 becomes a lien in favor of the state upon his or her property and  
19 (~~shall have~~) has priority as provided in chapters 35.49, 35.50,  
20 36.35, and 84.60 RCW(~~÷ PROVIDED, That~~). However, the interest of a  
21 mortgage or purchase contract holder who requires an accumulation of  
22 reserves out of which real estate taxes are paid (~~shall have~~) has  
23 priority to said deferred lien. This lien may accumulate up to forty  
24 percent of the amount of the claimant's equity value in (~~said~~) the  
25 property and the rate of interest (~~shall~~) must be an average of the  
26 federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two  
27 percentage points. The rate set for each new year (~~shall be~~) is  
28 computed by taking an arithmetical average to the nearest percentage  
29 point of the federal short-term rate, compounded annually. That  
30 average (~~shall~~) must be calculated using the rates from four months:  
31 January, April, and July of the calendar year immediately preceding the  
32 new year, and October of the previous preceding year. The interest  
33 (~~shall be~~) is calculated from the time it could have been paid before  
34 delinquency until (~~said~~) such obligation is paid or the date that the  
35 obligation is charged off as finally uncollectible. In the case of a  
36 mobile home, the department of licensing (~~shall~~) must show the

1 state's lien on the certificate of title for the mobile home. In the  
2 case of all other property, the department of revenue (~~shall~~) must  
3 file a notice of the deferral with the county recorder or auditor.

4 **Sec. 8.** RCW 84.38.100 and 2010 c 161 s 1168 are each amended to  
5 read as follows:

6 Whenever a person's special assessment and/or real property tax  
7 obligation is deferred under the provisions of this chapter, the amount  
8 deferred and required to be paid pursuant to RCW 84.38.120 (~~shall~~)  
9 becomes a lien in favor of the state upon his or her property and  
10 (~~shall have~~) has priority as provided in chapters 35.49, 35.50,  
11 36.35, and 84.60 RCW(~~:- PROVIDED, That~~). However, the interest of a  
12 mortgage or purchase contract holder who is required to cosign a  
13 declaration of deferral under RCW 84.38.090, (~~shall have~~) has  
14 priority to (~~said~~) such deferred lien. This lien may accumulate up  
15 to eighty percent of the amount of the claimant's equity value in  
16 (~~said~~) the property and (~~shall~~) must bear interest at the rate of  
17 five percent per year from the time it could have been paid before  
18 delinquency until said obligation is paid(~~:- PROVIDED, That~~).  
19 However, when taxes are deferred as provided in RCW 84.64.050, the  
20 amount (~~shall~~) must bear interest at the rate of five percent per  
21 year from the date the declaration is filed until the obligation is  
22 paid or the date that the obligation is charged off as finally  
23 uncollectible. In the case of a mobile home, the department of  
24 licensing (~~shall~~) must show the state's lien on the certificate of  
25 title for the mobile home. In the case of all other property, the  
26 department of revenue (~~shall~~) must file a notice of the deferral with  
27 the county recorder or auditor.

28 **Sec. 9.** RCW 84.38.140 and 2001 c 299 s 18 are each amended to read  
29 as follows:

30 (1) The department (~~shall~~) must collect all the amounts deferred  
31 together with interest under this chapter. However, in the event that  
32 the department is unable to collect an amount deferred together with  
33 interest, that amount deferred together with interest (~~shall~~) must be  
34 collected by the county treasurer in the manner provided for in chapter  
35 84.56 RCW. For purposes of collection of deferred taxes, the

1 provisions of chapters 84.56, 84.60, and 84.64 RCW (~~shall be~~) are  
2 applicable.

3 (2) When any deferred special assessment and/or real property taxes  
4 together with interest are collected the moneys (~~shall~~) must be  
5 deposited in the state general fund.

6 (3) The department may charge off as finally uncollectible any  
7 amount deferred under this chapter or chapter 84.37 RCW, including  
8 accrued interest, if the department is satisfied that there are no  
9 cost-effective means of collecting the amount due.

10 **Sec. 10.** RCW 84.60.010 and 1969 ex.s. c 251 s 1 are each amended  
11 to read as follows:

12 All taxes and levies which may hereafter be lawfully imposed or  
13 assessed (~~shall be and they~~) are (~~hereby~~) declared to be a lien  
14 respectively upon the real and personal property upon which they may  
15 hereafter be imposed or assessed, which liens (~~shall~~) include all  
16 charges and expenses of and concerning the (~~said~~) taxes which, by the  
17 provisions of this title, are directed to be made. The (~~said~~) lien  
18 (~~shall have~~) has priority to and (~~shall~~) must be fully paid and  
19 satisfied before any recognizance, mortgage, judgment, debt,  
20 obligation, or responsibility to or with which (~~said~~) the real and  
21 personal property may become charged or liable, except that the lien is  
22 of equal rank with liens for amounts deferred under chapter 84.37 or  
23 84.38 RCW.

24 NEW SECTION. **Sec. 11.** A new section is added to chapter 84.64 RCW  
25 to read as follows:

26 Unless the context clearly requires otherwise, for purposes of this  
27 chapter:

- 28 (1) "Interest" means interest and penalties; and  
29 (2) "Taxes;" "taxes, interest and costs;" and "taxes, interest, or  
30 costs" include any assessments and amounts deferred under chapters  
31 84.37 and 84.38 RCW, where such assessments and deferred amounts are  
32 included in a certificate of delinquency by the county treasurer.

33 **Sec. 12.** RCW 84.64.050 and 1999 c 18 s 7 are each amended to read  
34 as follows:

35 (1) After the expiration of three years from the date of

1 delinquency, when any property remains on the tax rolls for which no  
2 certificate of delinquency has been issued, the county treasurer  
3 (~~shall~~) must proceed to issue certificates of delinquency on the  
4 property to the county for all years' taxes, interest, and costs(~~(+~~  
5 ~~PROVIDED, That~~)). However, the county treasurer, with the consent of  
6 the county legislative authority, may elect to issue a certificate for  
7 fewer than all years' taxes, interest, and costs to a minimum of the  
8 taxes, interest, and costs for the earliest year.

9 (2) Certificates of delinquency (~~shall be~~) are prima facie  
10 evidence that:

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

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

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

16 ~~((4))~~ (d) Such certificate (~~shall have~~) has the same force and  
17 effect as a lis pendens required under chapter 4.28 RCW.

18 (3) The county treasurer may include in the certificate of  
19 delinquency any assessments which are due on the property and are the  
20 responsibility of the county treasurer to collect. (~~For purposes of~~  
21 ~~this chapter, "taxes, interest, and costs" include any assessments~~  
22 ~~which are so included by the county treasurer, and "interest" means~~  
23 ~~interest and penalties unless the context requires otherwise.))  
24 However, if the department of revenue has previously notified the  
25 county treasurer in writing that the property has a lien on it for  
26 deferred property taxes, the county treasurer must include in the  
27 certificate of delinquency any amounts deferred under chapters 84.37  
28 and 84.38 RCW that remain unpaid, including accrued interest and costs.~~

29 (4) The treasurer (~~shall~~) must file the certificates when  
30 completed with the clerk of the court at no cost to the treasurer, and  
31 the treasurer (~~shall~~) must thereupon, with legal assistance from the  
32 county prosecuting attorney, proceed to foreclose in the name of the  
33 county, the tax liens embraced in such certificates. Notice and  
34 summons must be served or notice given in a manner reasonably  
35 calculated to inform the owner or owners, and any person having a  
36 recorded interest in or lien of record upon the property, of the  
37 foreclosure action to appear within thirty days after service of such  
38 notice and defend such action or pay the amount due. Either (a)

1 personal service upon the owner or owners and any person having a  
2 recorded interest in or lien of record upon the property, or (b)  
3 publication once in a newspaper of general circulation, which is  
4 circulated in the area of the property and mailing of notice by  
5 certified mail to the owner or owners and any person having a recorded  
6 interest in or lien of record upon the property, or, if a mailing  
7 address is unavailable, personal service upon the occupant of the  
8 property, if any, is sufficient. If such notice is returned as  
9 unclaimed, the treasurer (~~shall~~) must send notice by regular first-  
10 class mail. The notice (~~shall~~) must include the legal description on  
11 the tax rolls, the year or years for which assessed, the amount of tax  
12 and interest due, and the name of owner, or reputed owner, if known,  
13 and the notice must include the local street address, if any, for  
14 informational purposes only. The certificates of delinquency issued to  
15 the county may be issued in one general certificate in book form  
16 including all property, and the proceedings to foreclose the liens  
17 against the property may be brought in one action and all persons  
18 interested in any of the property involved in the proceedings may be  
19 made codefendants in the action, and if unknown may be therein named as  
20 unknown owners, and the publication of such notice (~~shall be~~) is  
21 sufficient service thereof on all persons interested in the property  
22 described therein, except as provided above. The person or persons  
23 whose name or names appear on the treasurer's rolls as the owner or  
24 owners of the property (~~shall~~) must be considered and treated as the  
25 owner or owners of the property for the purpose of this section, and if  
26 upon the treasurer's rolls it appears that the owner or owners of the  
27 property are unknown, then the property (~~shall~~) must be proceeded  
28 against, as belonging to an unknown owner or owners, as the case may  
29 be, and all persons owning or claiming to own, or having or claiming to  
30 have an interest therein, are hereby required to take notice of the  
31 proceedings and of any and all steps thereunder(~~—PROVIDED, That~~),  
32 However, prior to the sale of the property, the treasurer (~~shall~~)  
33 must order or conduct a title search of the property to be sold to  
34 determine the legal description of the property to be sold and the  
35 record title holder, and if the record title holder or holders differ  
36 from the person or persons whose name or names appear on the  
37 treasurer's rolls as the owner or owners, the record title holder or  
38 holders (~~shall~~) must be considered and treated as the owner or owners



1 of the property for the purpose of this section, and (~~shall be~~) are  
2 entitled to the notice provided for in this section. Such title search  
3 (~~shall~~) must be included in the costs of foreclosure.

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

13 (6) The county treasurer shall not sell property which is eligible  
14 for deferral of taxes under chapter 84.38 RCW but shall require the  
15 owner of the property to file a declaration to defer taxes under  
16 chapter 84.38 RCW.

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