

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 6553

63rd Legislature
2014 Regular Session

Passed by the Senate March 10, 2014
YEAS 49 NAYS 0

President of the Senate

Passed by the House March 7, 2014
YEAS 97 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 6553** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 6553

AS AMENDED BY THE HOUSE

Passed Legislature - 2014 Regular Session

State of Washington **63rd Legislature** **2014 Regular Session**

By Senators Kline, Hobbs, Hatfield, and Fain

Read first time 02/06/14. Referred to Committee on Law & Justice.

1 AN ACT Relating to the distribution of real property sale proceeds;
2 and amending RCW 6.21.110, 61.24.080, 6.17.140, and 6.17.150.

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

4 **Sec. 1.** RCW 6.21.110 and 1994 c 185 s 3 are each amended to read
5 as follows:

6 (1) Upon the return of any sale of real estate, the clerk: (a)
7 Shall enter the cause, on which the execution or order of sale issued,
8 by its title, on the motion docket, and mark opposite the same: "Sale
9 of land for confirmation"; (b) shall mail notice of the filing of the
10 return of sale to all parties who have entered a written notice of
11 appearance in the action and who have not had an order of default
12 entered against them; (c) shall file proof of such mailing in the
13 action; (d) shall apply the proceeds of the sale returned by the
14 sheriff, or so much thereof as may be necessary, to satisfaction of the
15 judgment, including interest as provided in the judgment, and shall pay
16 any excess proceeds as provided in subsection (5) of this section by
17 direction of court order; and (e) upon confirmation of the sale, shall
18 deliver the original certificate of sale to the purchaser.

1 (2) The judgment creditor or successful purchaser at the sheriff's
2 sale is entitled to an order confirming the sale at any time after
3 twenty days have elapsed from the mailing of the notice of the filing
4 of the sheriff's return, on motion with notice given to all parties who
5 have entered a written notice of appearance in the action and who have
6 not had an order of default entered against them, unless the judgment
7 debtor, or in case of the judgment debtor's death, the representative,
8 or any nondefaulting party to whom notice was sent shall file
9 objections to confirmation with the clerk within twenty days after the
10 mailing of the notice of the filing of such return.

11 (3) If objections to confirmation are filed, the court shall
12 nevertheless allow the order confirming the sale, unless on the hearing
13 of the motion, it shall satisfactorily appear that there were
14 substantial irregularities in the proceedings concerning the sale, to
15 the probable loss or injury of the party objecting. In the latter
16 case, the court shall disallow the motion and direct that the property
17 be resold, in whole or in part, as the case may be, as upon an
18 execution received as of that date.

19 (4) Upon a resale, the bid of the purchaser at the former sale
20 shall be deemed to be renewed and continue in force, and no bid shall
21 be taken, except for a greater amount. If on resale the property sells
22 for a greater amount to any person other than the former purchaser, the
23 clerk shall first repay to the former purchaser out of the proceeds of
24 the resale the amount of the former purchaser's bid together with
25 interest as is provided in the judgment.

26 (5)(a) If, after (~~the satisfaction~~) confirmation of the sale and
27 the judgment is satisfied, there (~~be~~) are any proceeds of the sale
28 remaining, the clerk shall pay such proceeds, as provided for in (b) of
29 this subsection, to all interests in, or liens against, the property
30 eliminated by sale under this section in the order of priority that the
31 interest, lien, or claim attached to the property, as determined by the
32 court. Any remaining proceeds shall be paid to the judgment debtor, or
33 the judgment debtor's representative, as the case may be, before the
34 order is made upon the motion to confirm the sale only if the party
35 files with the clerk a waiver of all objections made or to be made to
36 the proceedings concerning the sale; otherwise, the excess proceeds
37 shall remain in the custody of the clerk until the sale of the property

1 has been disposed of(~~(; but if the sale be confirmed, such excess~~
2 ~~proceeds shall be paid to the judgment debtor or representative as a~~
3 ~~matter of course)).~~

4 (b) Anyone seeking disbursement of surplus funds shall file a
5 motion requesting disbursement in the superior court for the county in
6 which the surplus funds are deposited. Notice of the motion shall be
7 served upon or mailed to all persons who had an interest in the
8 property at the time of sale, and any other party who has entered an
9 appearance in the proceeding, not less than twenty days prior to the
10 hearing of the motion. The clerk shall not disburse such remaining
11 proceeds except upon order of the superior court of such county.

12 (6) The purchaser shall file the original certificate of sale for
13 record with the recording officer in the county in which the property
14 is located.

15 **Sec. 2.** RCW 61.24.080 and 1998 c 295 s 10 are each amended to read
16 as follows:

17 The trustee shall apply the proceeds of the sale as follows:

18 (1) To the expense of sale, including a reasonable charge by the
19 trustee and by his or her attorney: PROVIDED, That the aggregate of
20 the charges by the trustee and his or her attorney, for their services
21 in the sale, shall not exceed the amount which would, by the superior
22 court of the county in which the trustee's sale occurred, have been
23 deemed a reasonable attorney fee, had the trust deed been foreclosed as
24 a mortgage in a noncontested action in that court;

25 (2) To the obligation secured by the deed of trust; and

26 (3) The surplus, if any, less the clerk's filing fee, shall be
27 deposited, together with written notice of the amount of the surplus,
28 a copy of the notice of trustee's sale, and an affidavit of mailing as
29 provided in this subsection, with the clerk of the superior court of
30 the county in which the sale took place. The trustee shall mail copies
31 of the notice of the surplus, the notice of trustee's sale, and the
32 affidavit of mailing to each party to whom the notice of trustee's sale
33 was sent pursuant to RCW 61.24.040(1). The clerk shall index such
34 funds under the name of the grantor as set out in the recorded notice.
35 Upon compliance with this subsection, the trustee shall be discharged
36 from all further responsibilities for the surplus. Interests in, or
37 liens or claims of liens against the property eliminated by sale under

1 this section shall attach to the surplus in the order of priority that
2 it had attached to the property, as determined by the court. A party
3 seeking disbursement of the surplus funds shall file a motion
4 requesting disbursement in the superior court for the county in which
5 the surplus funds are deposited. Notice of the motion shall be
6 personally served upon, or mailed in the manner specified in RCW
7 61.24.040(1)(b), to all parties to whom the trustee mailed notice of
8 the surplus, and any other party who has entered an appearance in the
9 proceeding, not less than twenty days prior to the hearing of the
10 motion. The clerk shall not disburse such surplus except upon order of
11 the superior court of such county.

12 **Sec. 3.** RCW 6.17.140 and 1988 c 231 s 11 are each amended to read
13 as follows:

14 The sheriff shall, at a time as near before or after service of the
15 writ on, or mailing of the writ to, the judgment debtor as is possible,
16 execute the writ as follows:

17 (1) If property has been attached, the sheriff shall indorse on the
18 execution, and pay to the clerk forthwith, if he or she has not already
19 done so, the amount of the proceeds of sales of perishable property or
20 debts due the defendant previously received, sufficient to satisfy the
21 judgment.

22 (2) If the judgment is not then satisfied, and property has been
23 attached and remains in custody, the sheriff shall sell the same, or
24 sufficient thereof to satisfy the judgment. When property has been
25 attached and it is probable that such property will not be sufficient
26 to satisfy the judgment, the sheriff may, on instructions from the
27 judgment creditor, levy on other property of the judgment debtor
28 without delay.

29 (3) If then any portion of the judgment remains unsatisfied, or if
30 no property has been attached or the same has been discharged, the
31 sheriff shall levy on the property of the judgment debtor, sufficient
32 to satisfy the judgment, in the manner described in RCW 6.17.160.

33 (4) If, after the judgment is satisfied, any property remains in
34 custody, the sheriff shall deliver it to the judgment debtor.

35 (5) Until a levy, personal property shall not be affected by the
36 execution.

1 (6) When property has been sold or debts received on execution, the
2 sheriff shall pay the proceeds to the clerk who issued the writ, for
3 satisfaction of the judgment as commanded in the writ or for (~~return~~)
4 payment of any excess proceeds to all interests in, or liens against,
5 the property eliminated by the sale in the order of priority that the
6 interest, lien, or claim attached to the property, as determined by the
7 court. Any remaining proceeds shall be paid to the judgment debtor.
8 No sheriff or other officer may retain any moneys collected on
9 execution more than twenty days before paying the same to the clerk of
10 the court who issued the writ.

11 **Sec. 4.** RCW 6.17.150 and 1987 c 442 s 415 are each amended to read
12 as follows:

13 Upon receipt of proceeds from the sheriff on execution, the clerk
14 shall notify the party to whom the same is payable, and pay over the
15 amount to that party as required by law. If any proceeds remain after
16 satisfaction of the judgment, the clerk shall pay the excess to all
17 interests in, or liens against, the property eliminated by the sale in
18 the order of priority that the interest, lien, or claim attached to the
19 property, as determined by the court. Any remaining proceeds shall be
20 paid to the judgment debtor.

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