CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 1421

Chapter 221, Laws of 2013

63rd Legislature
2013 Regular Session

PROPERTY TAX--DEFERRED COLLECTION

EFFECTIVE DATE: 07/28/13

Passed by the House April 18, 2013
Yeas 93  Nays 0

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate April 25, 2013
Yeas 46  Nays 0

BRAD OWEN
President of the Senate

Approved May 14, 2013, 11:10 a.m.

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is ENGROSSED HOUSE BILL 1421 as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER
Chief Clerk

FILED
May 14, 2013

JAY INSLEE
Governor of the State of Washington

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

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

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

Whenever property struck off to or bid in by a county at a sale for general taxes is subsequently sold by the county, the proceeds of the sale ((shall first be applied to discharge in full the lien or liens for general taxes for which property was sold; the remainder, or such portion thereof as may be necessary, shall be paid to the city or town to discharge all local improvement assessment liens against the property; and the surplus, if any, shall)) must be applied as follows:

(1) First, to reimburse the county for the costs of foreclosure and sale as defined in RCW 36.35.110;

(2) Any remaining proceeds must next 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;

(3) Any remaining proceeds must next be applied to discharge in full the lien or liens for general taxes for which the property was sold;

(4) Any remaining proceeds must be paid to the city or town to discharge all local improvement assessment liens against the property; and

(5) Any surplus proceeds must be distributed among the proper county funds.

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

(1) No claims ((shall ever be)) 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 ((shall)) must at the time of deeding ((said)) the property be thereby canceled((: PROVIDED, That)). However, the proceeds of any sale of any property acquired by the county by tax deed ((shall be)) 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), and the direct costs incurred by the county in selling the property.

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

The board of county commissioners of any county may, pending sale of any county property acquired by foreclosure of delinquent taxes or
amounts deferred under chapter 84.37 or 84.38 RCW, rent any portion thereof on a tenancy from month to month. From the proceeds of the rentals the board of county commissioners ((shall)) must first pay all expense in management of said property and in repairing, maintaining and insuring the improvements thereon((, and)). The balance of said proceeds ((shall)) must first be paid to reimburse the county for the costs of foreclosure and sale as defined in RCW 36.35.110. The remainder of the proceeds, if any, must be paid to the department of revenue in the amount of any taxes deferred under chapter 84.37 or 84.38 RCW on the property, including accrued interest, outstanding at the time the county acquired the property by tax deed, and then to the various taxing units interested in the taxes levied against said property in the same proportion as the current tax levies of the taxing units having levies against said property.

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

(1) Any person, firm or corporation who or which may have been entitled to redeem the property involved prior to the issuance of the treasurer's deed to the county, and his or her or its successor in interest, ((shall have)) has the right, at any time after the commencement of, and prior to the judgment in the action authorized herein, to redeem such property by paying to the county treasurer:

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

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

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

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

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

Sec. 5. RCW 36.35.220 and 2009 c 549 s 4077 are each amended to
read as follows:
Any person filing a statement in such action ((shall)) must pay the
clerk of the court an appearance fee in the amount required by the
county for appearances in civil actions, and ((shall be)) is required
to tender the amount of all taxes, including any amounts deferred under
chapter 84.37 or 84.38 RCW, interest and costs charged against the real
property to which he or she lays claim, and no further costs in such
action ((shall)) may be required or recovered.

Sec. 6. RCW 36.35.250 and 1998 c 106 s 19 are each amended to read
as follows:
Nothing in RCW 36.35.160 through 36.35.270 contained ((shall)) may
be construed to deprive any city, town, or other unit of local
government that imposed special assessments on the property by
including the property in a local improvement or special assessment
district of its right to reimbursement for special assessments out of
any surplus over and above the taxes, including amounts deferred under
chapters 84.37 and 84.38 RCW, interest and costs involved.

Sec. 7. RCW 84.37.070 and 2010 c 161 s 1167 are each amended to
read as follows:
Whenever a person's special assessment or real property tax
obligation, or both, is deferred under this chapter, the amount
deferred and required to be paid pursuant to RCW 84.38.120 (shall) becomes a lien in favor of the state upon his or her property and (shall have) has priority as provided in chapters 35.49, 35.50, 36.35, and 84.60 RCW (provided, That). However, the interest of a mortgage or purchase contract holder who requires an accumulation of reserves out of which real estate taxes are paid (shall have) has priority to said deferred lien. This lien may accumulate up to forty percent of the amount of the claimant's equity value in (said) the property and the rate of interest (shall) must be an average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points. The rate set for each new year (shall be) is computed by taking an arithmetical average to the nearest percentage point of the federal short-term rate, compounded annually. That average (shall) must be calculated using the rates from four months: January, April, and July of the calendar year immediately preceding the new year, and October of the previous preceding year. The interest (shall be) is calculated from the time it could have been paid before delinquency until (said) such obligation is paid or the date that the obligation is charged off as finally uncollectible. In the case of a mobile home, the department of licensing (shall) must show the state's lien on the certificate of title for the mobile home. In the case of all other property, the department of revenue (shall) must file a notice of the deferral with the county recorder or auditor.

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

Whenever a person's special assessment and/or real property tax obligation is deferred under the provisions of this chapter, the amount deferred and required to be paid pursuant to RCW 84.38.120 (shall) becomes a lien in favor of the state upon his or her property and (shall have) has priority as provided in chapters 35.49, 35.50, 36.35, and 84.60 RCW (provided, That). However, the interest of a mortgage or purchase contract holder who is required to cosign a declaration of deferral under RCW 84.38.090, (shall have) has priority to (said) such deferred lien. This lien may accumulate up to eighty percent of the amount of the claimant's equity value in (said) the property and (shall) must bear interest at the rate of five percent per year from the time it could have been paid before
delinquency until said obligation is paid. (Provided, That).

However, when taxes are deferred as provided in RCW 84.64.050, the amount (shall) must bear interest at the rate of five percent per year from the date the declaration is filed until the obligation is paid or the date that the obligation is charged off as finally uncollectible. In the case of a mobile home, the department of licensing (shall) must show the state’s lien on the certificate of title for the mobile home. In the case of all other property, the department of revenue (shall) must file a notice of the deferral with the county recorder or auditor.

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

(1) The department (shall) must collect all the amounts deferred together with interest under this chapter. However, in the event that the department is unable to collect an amount deferred together with interest, that amount deferred together with interest (shall) must be collected by the county treasurer in the manner provided for in chapter 84.56 RCW. For purposes of collection of deferred taxes, the provisions of chapters 84.56, 84.60, and 84.64 RCW (shall be) are applicable.

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

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

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

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

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

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

(1) "Interest" means interest and penalties; and

(2) "Taxes;" "taxes, interest and costs;" and "taxes, interest, or costs" include any assessments and amounts deferred under chapters 84.37 and 84.38 RCW, where such assessments and deferred amounts are included in a certificate of delinquency by the county treasurer.

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

(1) 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 ((shall)) must proceed to issue certificates of delinquency on the property to the county for all years' taxes, interest, and costs((: PROVIDED, That)). 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 ((shall be)) are prima facie evidence that:

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

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

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

((4)) (d) Such certificate ((shall have)) 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

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responsibility of the county treasurer to collect. (For purposes of
this chapter, "taxes, interest, and costs" include any assessments
which are so included by the county treasurer, and "interest" means
interest and penalties unless the context requires otherwise.)
However, if the department of revenue has previously notified the
county treasurer in writing that the property has a lien on it for
defered 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 (shall) must file the certificates when
completed with the clerk of the court at no cost to the treasurer, and
the treasurer (shall) 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 (shall) must send notice by regular first-
class mail. The notice (shall) 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 ((shall be)) 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 ((shall)) 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 ((shall)) 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((: PROVIDED, That)). However, prior to the sale of the property, the treasurer ((shall)) 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 ((shall)) must be considered and treated as the owner or owners of the property for the purpose of this section, and ((shall be)) are entitled to the notice provided for in this section. Such title search ((shall)) 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 ((shall)) may not sell property ((which)) that is eligible for deferral of taxes under chapter 84.38 RCW but ((shall)) must require the owner of the property to file a declaration to defer taxes under chapter 84.38 RCW.

Passed by the House April 18, 2013.
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