

HOUSE BILL REPORT

SSB 6183

As Reported by House Committee On: Judiciary

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 Local Government (originally sponsored by Senators Takko and Angel).

Brief History:

Committee Activity:

Judiciary: 2/14/18, 2/22/18 [DPA].

**Brief Summary of Substitute Bill
(As Amended by Committee)**

- 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.
- Requires that the amount of any state tax deferral lien be included in the minimum distraint sale bid amount.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 13 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Graves, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Klippert, Muri, Orwall, Shea and Valdez.

Staff: Cece Clynch (786-7195).

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.

Background:

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.

There is a process available for retitling the manufactured home and having it taxed as personal property again. If a manufactured home for which title has been eliminated is moved from one piece of property owned by the homeowner to another piece owned by the homeowner, the manufactured home does not need to be retitled. Rather, the homeowner may apply for a transfer in location.

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.
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.

All real and personal property in Washington is subject to property tax, unless a specific exemption is provided by law. Personal property includes both tangible property, such as inventory, livestock and poultry, logs and lumber, motor vehicles, or manufactured homes, and intangible property, such as contract rights to cut timber, mining claims, or certain public utility easements. Real property includes all land, buildings, structures, or permanent improvements on land, permanent fixtures on land, standing timber, or water rights. County treasurers (treasurers) receive and collect all taxes extended upon the tax rolls of the county.

If personal property taxes are delinquent, the treasurer must commence collection efforts by preparing papers in distraint. The treasurer must then distraint, or seize, sufficient goods and chattel belonging to the person charged with the taxes and sell them at public auction to pay the delinquent taxes. The treasurer may also collect fees and costs for the distraint and sale of personal property.

Three years after the date real property taxes become delinquent, the treasurer must issue a certificate of delinquency on the property for all years' taxes, interest, and costs, unless the treasurer elects to issue a certificate for fewer than all years' taxes, interest, and costs. The 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 treasurer authority to proceed with the sale of the property. The 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 treasurer issues a tax deed conveying title to the property to the winning bidder at the auction.

If a taxpayer has been granted a tax deferral, the state pays the state and local property tax amounts due, and those tax amounts become a lien on the property. In the event that a county treasurer institutes a foreclosure, the amount of the state's tax deferral lien is included in the minimum foreclosure sale bid amount. There are not similar statutory provisions requiring that the amount of the state's lien be included in the minimum distraint sale bid amount, however, when a tax deferral lien is on a manufactured/mobile or park model home,

the Department of Revenue (DOR), via the DOL, is added to the title and the state's lien is included in order to remove the DOR from the title.

Summary of Amended 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.

Treasurers are required to include the amount of the state's tax deferral lien in the minimum distraint sale bid amount.

Amended Bill Compared to Substitute Bill:

The amended bill retains the entirety of the underlying bill and, in addition, includes a provision requiring that treasurers include the amount of any state tax deferral lien in the minimum distraint sale bid amount.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill will make things a little easier for local governments. It can be very difficult to track down owners in order to get them to sign off on the title to a manufactured/mobile home that has been sold in a foreclosure or distraint proceeding. The proposed amendment from the Department of Revenue is consistent with the original intent behind the bill, and it makes the bill better. This is a priority bill for the Washington Association of County Officials.

(Opposed) None.

Persons Testifying: Senator Takko, prime sponsor; Monty Cobb, Washington Association of County Officials; and Jeff Gadman, Thurston County.

Persons Signed In To Testify But Not Testifying: None.