

December 30, 2013

Legislative Update – Changes in the statute to clarify inclusion of deferral balances in certificates of delinquency and treatment of proceeds when tax title properties are rented or sold

Engrossed House Bill 1421 was passed by the 2013 Legislature and became effective July 28, 2013.

The measure amended 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, 84.64.050, and added a new section to chapter 84.64 RCW:

- To clarify that deferral balances include interest and that those balances are to be included in the certificate of delinquency.
- To clarify the treatment of proceeds received by counties when tax title properties are rented or sold and to establish priority for counties to recover costs of foreclosure and rental or sale.
- To confirm that deferral lien balances to be collected at the time tax title properties are rented or sold include interest accrued up until the point of foreclosure.

Deferred Balance Includes Interest and Must Be Included in Certificate of Delinquency

Chapter 84.64 RCW was amended and new sections were added to clarify the following.

- “Interest” includes penalties;
- “Taxes;” “taxes, interest, and costs;” and “taxes, interest, or costs” include amounts deferred under chapters 84.37 and 84.38 RCW when those amounts are included in the treasurer’s certificate of delinquency.
- The treasurer must include deferral balances in the certificate of delinquency when the Department has notified the treasurer in writing that the property has a deferral lien.
- The treasurer must file an amended certificate of delinquency when the title search required reveals a deferral lien and the amount is not already included in the certificate.

Treatment of Proceeds from Rent or Sale of Tax Title Properties

Passage of this legislation provided clarification regarding the treatment of proceeds from the rental or sale of tax title properties.

The amendment to RCW 36.35.190 clarifies that the treasurer must include deferral account balances in the certificate to the redemptioner specifying the types of delinquencies and amounts paid and ensuring that liens have been discharged.

“Costs of foreclosure and sale” are defined as 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.” (RCW 36.35.110)

Proceeds from rentals must be applied to outstanding balances in the following order:

1. Expenses of property management including repair, maintenance, and insurance
2. Costs of foreclosure and sale

Property Tax Special Notice

Treatment of Deferral Lien Balances

3. Deferral account balances
4. Apportionment to various taxing districts

(RCW 36.35.140)

Proceeds from sales must be applied to outstanding balances in the following order:

1. Costs of foreclosure and sale
2. Deferral account balances
3. General property taxes
4. City or town local improvement assessment liens
5. Distribution of surplus among appropriate county funds

(RCW 35.49.160)