July 29, 2019

Legislative Updates – Foreclosure, Local Property Tax Incentives, Very Low-Income Housing

The 2019 Legislature passed several bills related to property foreclosure, local property tax incentives, and very low income housing property tax exemptions. This special notice explains these bills. All of these bills are effective July 28, 2019.

HB 1634 – Requiring property sold in tax lien foreclosure proceedings to be sold as is.

House Bill 1634 (HB 1634) clarifies that property sold in a tax lien foreclosure sale must be sold "as is." RCW 84.64.080.

"As is" means there is no guarantee or warranty of any kind, express or implied, relative to:

- Title, eligibility to build upon or subdivide the property
- Zoning classification
- Size
- Location
- Fitness for any use or purpose
- Any other feature or condition of a foreclosed property sold pursuant to this chapter or sold pursuant to chapter 36.35 RCW as a tax title property

SHB 1746 – Incentivizing the development of commercial office space in cities in a county with a population of less than one million five hundred thousand.

Substitute House Bill 1746 (SHB 1746) allows a city in a county with a population less than 1.5 million to designate a commercial office space development area. That city may then create the following programs within that area:

- A local sales and use tax remittance program, and
- A local property tax reinvestment program to incentivize the development of commercial office space.

The bill also requires the Joint Legislative Audit & Review Committee to study the effectiveness of the legislation and submit a report to the appropriate committees of the Legislature by October 1, 2028.

Local sales and use tax remittance

A city may create a remittance program for 100 percent of the local sales and use tax on:

- The sale of, or charge made for labor and services on the construction or rehabilitation of commercial office space;
- The sales or use of tangible personal property installed as an ingredient or component of a commercial office space.

The commercial office space can include mixed-use buildings but does not include residential spaces. This property tax special notice focuses on the local administration of the property tax reinvestment program. The Department will issue additional guidance to cities regarding the local sales and use tax remittance. For questions regarding the local sales and use tax remittance, please contact Ashley Boss at (360) 705-6072 or AshleyB@dor.wa.gov.

Local property tax reinvestment program

After approving a commercial office space to participate in a property tax reinvestment program, the city must deposit into a specified account, an amount equal to the city's share of the property tax on the value of new construction and rehabilitation of real property for qualifying projects for 10 successive years.

Cities will need to:

- Adopt an ordinance designating a commercial office space development area or areas
- Establish the boundaries of the commercial office space development area or areas
- Create a commercial office development public improvement fund to deposit property tax reinvestment revenue
- Accept applications for projects
- Approve qualified projects and issue a conditional certificate of acceptance
- Deposit the city's share of property tax on the value of new construction and rehabilitation of real property for qualifying projects into the commercial office development public improvement fund for 10 successive years, beginning January 1 of the calendar year after the project is approved
- Restrict expenditures from this account for public improvements

Taxing districts within the commercial office space development area will need to:

- Decide if they will participate in the property tax reinvestment program
- Provide a written agreement of participation from the taxing authority that collects the local property tax.
- Deposit the district's share of property tax on the value of new construction and rehabilitation of real property for qualifying projects into the city's commercial office development public improvement fund for 10 successive years, beginning January 1 of the calendar year after the project is approved

County assessors will need to:

- Track the boundaries of the commercial office development area
- Provide cities with the following information:
    - Assessed value information for the qualifying project so the city can determine if the commercial office development area exceeds 25 percent of the city's certified assessed value for the tax year in which the area is established
    - Assessed value for qualified projects for 10 years, beginning the year after approval by the city, if requested
    - The city's and each participating district's levy rate component for the purpose of calculating the share of property tax on the value of new construction and rehabilitation of real property for qualifying projects

ESSB 5131– Regarding foreclosure and distraint sales of manufactured/mobile or park model homes.

Engrossed Substitute Senate Bill 5131 (ESSB 5131) removes from RCW 46.12.700 the requirement for a lienholder signature on papers related to foreclosure or distraint sales of manufactured/mobile or park model homes, and amends RCW 84.56.070, requiring papers in a distraint to include any amounts deferred under RCW 84.37 or RCW 84.38.

The bill makes the following changes to the record requirements when a manufactured/mobile or park model home is sold at a county treasurer's foreclosure:

- The registered owner of record, legal owner of title, and the purchaser are not required to sign the certificate of title and title application to transfer title.
- Any lienholder interest in a manufactured/mobile or park model home is extinguished by the county treasurer's foreclosure or distraint sale (provide that such lienholder has been provided a copy of the notice of the sale at his or her last known address by registered letter at least thirty days prior to the date of sale).

The bill also changes the requirements for papers in a distraint as explained below:

- The amount of taxes listed in papers of distraint must include any amounts deferred under RCW 84.37 or 84.38 that are a lien on the personal property to be distrained.
- Any amounts deferred under RCW 84.37 or 84.38 that are a lien on the personal property to be sold must be included in the minimum amount of sale.

ESSB 5183 (Section 11) – Concerning relocation assistance for manufactured/mobile home park tenants. (Expanding the very low-income property tax exemption)

Engrossed Substitute Senate Bill 5183 (ESSB 5183) made several revisions concerning manufactured and mobile homes.

Relevant to the Department of Revenue, Section 11 of ESSB 5183 expands the property tax exemption under RCW 84.36.560 for entities that own or use real and personal property to provide rental housing for very low-income households to include mobile home park or manufactured housing cooperatives (cooperatives). The changes add cooperatives to the definition of “nonprofit entity” in RCW 84.36.560, which may qualify for the exemption if the Washington State Housing Finance Commission (WSHFC) is a qualifying funding source for the cooperatives and at least 75 percent of the occupied dwelling units are occupied by very low-income households.

Question: With the passage of ESSB 5183, does this mean all cooperatives will qualify for a property tax exemption on property they own or use?
Answer: No. The revisions in ESSB 5183 only apply to those cooperatives who meet the very low-income criteria in RCW 84.36.560, and meet the definition of “nonprofit entity” with a qualifying funding source through the WSHFC

Question: Will other nonprofit organizations who provide very low-income housing and use the WSHFC as a funding source qualify for a property tax exemption under RCW 84.36.560?
Answer: No. ESSB 5183 specifies that financing through the WSHFC applies only to those cooperatives (defined in RCW 59.20.030), and who otherwise meet the very low-income criteria.

Questions: If you have questions or need additional information, please contact the Department of Revenue Property Tax Division at (360) 534-1400.