

SENATE BILL REPORT

ESB 6553

As Amended by House, March 7, 2014

Title: An act relating to the distribution of real property sale proceeds.

Brief Description: Concerning the distribution of real property sale proceeds.

Sponsors: Senators Kline, Hobbs, Hatfield and Fain.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 2/06/14 [DP].

Passed Senate: 2/18/14, 47-0.

Passed House: 3/07/14, 97-0.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Majority Report: Do pass.

Signed by Senators Angel, Co-Chair; Hobbs, Co-Chair; Benton, Vice Co-Chair; Mullet, Vice Co-Chair; Fain, Hatfield, Nelson and Roach.

Staff: Alison Mendiola (786-7483)

Background: Real property may be foreclosed judicially or non-judicially.

Nonjudicial Foreclosures. The Deeds of Trust Act (RCW 61.24) provides that if there are any surplus funds from a foreclosure sale, the surplus remains with the clerk of the superior court of the county in which the sale took place. Notice of the sale and the surplus funds is provided to all known junior lien holders. Any interest or liens or claims of liens against the property attach to the surplus in the order that it had attached to the property. A party seeking disbursement of the surplus funds must file a motion requesting disbursement in the superior court in the county where the surplus funds are deposited. The clerk may only disburse any surplus by order of the superior court of that county.

Judicial Foreclosures. After the satisfaction of the judgment of a judicial foreclosure, and the sale is confirmed, the clerk of the superior court must pay the judgment debtor any excess proceeds.

Summary of Engrossed Bill: In a judicial foreclosure, after confirmation of the sale and the judgment is satisfied, if there are any proceeds, the clerk must pay such proceeds to all

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interests in, or liens against, the property eliminated by the sale in the order of priority that the interest, lien, or claim attached to the property. Any remaining proceeds must be paid to the judgment debtor. Anyone seeking disbursement of surplus funds must file a motion requesting disbursement in the superior court for the county in which the surplus funds are deposited. Notice of the motion must be served upon or mailed to all persons who had an interest in the property at the time of the sale, not less than 20 days prior to the hearing of the motion. The clerk may only disburse any surplus by order of the superior court of that county. It is further clarified that the court, not the clerk, determines the order a priority attaches to any surplus funds.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: When there are sheriff sales any remaining proceeds go back to the creditor which is different than what happens in nonjudicial foreclosures where funds are disbursed in order that the lien attaches. It makes the two types of sales the same for junior lien holders.

Persons Testifying: PRO: Jim Kainber, Realty in Motion.

House Amendment(s): Retains all of the underlying bill and makes the following additions: amends two additional statutes that pertain to execution on property, providing that the junior lienholders rather than the debtor are entitled first to excess proceeds.