

SIXTY SEVENTH LEGISLATURE - REGULAR SESSION

EIGHTY FIRST DAY

House Chamber, Olympia, Thursday, April 1, 2021

The House was called to order at 9:55 a.m. by the Speaker (Representative Orwall presiding).

Reading of the Journal of the previous day was dispensed with and it was ordered to stand approved.

There being no objection, the House advanced to the third order of business.

MESSAGE FROM THE SENATE

March 30, 2021

Mme. SPEAKER:

The Senate has passed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5083,

and the same is herewith transmitted.

Brad Hendrickson, Secretary

There being no objection, the House advanced to the fourth order of business.

INTRODUCTION & FIRST READING

HB 1567 by Representative Chase

AN ACT Relating to improving emergency preparedness through establishment of a critical supplies stockpile; creating a new section; and providing an expiration date.

Referred to Committee on Community & Economic Development.

There being no objection, the bill listed on the day's introduction sheet under the fourth order of business was referred to the committee so designated.

There being no objection, the House advanced to the fifth order of business.

REPORTS OF STANDING COMMITTEES

March 29, 2021

HB 1094 Prime Sponsor, Representative Ormsby: Making 2021-2023 fiscal biennium operating appropriations. Reported by Committee on Appropriations

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chopp; Cody; Dolan; Fitzgibbon; Frame; Hansen; Johnson, J.; Lekanoff; Pollet; Ryu; Senn; Springer; Stonier; Sullivan and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Dye; Harris; Hoff; Jacobsen; Rude; Schmick and Steele.

Referred to Committee on Rules for second reading.

March 31, 2021

HB 1494 Prime Sponsor, Representative Harris-Talley: Providing housing safety, security, and protection for Washington families by creating the antidisplacement property tax exemption. Reported by Committee on Finance

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Frame, Chair; Berg, Vice Chair; Walen, Vice Chair; Chopp; Harris-Talley; Morgan; Orwall; Ramel; Springer; Thai and Wylie.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Chase; Stokesbary and Vick.

Referred to Committee on Appropriations.

March 31, 2021

HB 1539 Prime Sponsor, Representative Frame: Narrowing the business and occupation tax deduction, and sales and use tax credit and refund, for bad debts available to sellers. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Frame, Chair; Berg, Vice Chair; Chopp; Harris-Talley; Morgan; Orwall; Ramel; Thai and Wylie.

MINORITY recommendation: Do not pass. Signed by Representatives Walen, Vice Chair; Orcutt, Ranking

Minority Member; Dufault, Assistant Ranking Minority Member; Chase; Springer; Stokesbary and Vick.

Referred to Committee on Rules for second reading.

March 31, 2021

HJR 4204 Prime Sponsor, Representative Harris-Talley: Concerning a constitutional amendment providing for a residential real property exemption from property taxes levied for state purposes. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Frame, Chair; Berg, Vice Chair; Walen, Vice Chair; Chopp; Harris-Talley; Morgan; Orwall; Ramel; Springer; Thai and Wylie.

MINORITY recommendation: Without recommendation. Signed by Representative Stokesbary.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Chase and Vick.

Referred to Committee on Appropriations.

March 31, 2021

2SSB 5315 Prime Sponsor, Committee on Ways & Means: Concerning captive insurance. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Frame, Chair; Berg, Vice Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Chase; Chopp; Harris-Talley; Morgan; Orwall; Ramel; Springer; Thai; Vick and Wylie.

MINORITY recommendation: Without recommendation. Signed by Representative Stokesbary.

Referred to Committee on Rules for second reading.

March 31, 2021

ESSB 5408 Prime Sponsor, Committee on Law & Justice: Concerning the homestead exemption. Reported by Committee on Finance

MAJORITY recommendation: Do pass as amended by Committee on Finance and without amendment by Committee on Civil Rights & Judiciary.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that the homestead exemption is

intended to protect the homeowner's equity in a home against unsecured creditors. The legislature finds that changes to the homestead exemption are necessary to modernize the law and to address the case of *Wilson v. Rigby*, 909 F.3d 306 (2018) and to adopt the reasoning in *In re Good*, 588 B.R. 573 (Bankr. W.D. Wash. 2018).

Sec. 2. RCW 6.13.010 and 1999 c 403 s 1 are each amended to read as follows:

(1) The homestead consists of real or personal property that the owner or a dependent of the owner uses as a residence. In the case of a dwelling house or mobile home, the homestead consists of the dwelling house or the mobile home in which the owner resides or intends to reside, with appurtenant buildings, and the land on which the same are situated and by which the same are surrounded, or improved or unimproved land, regardless of area, owned with the intention of placing a house or mobile home thereon and residing thereon. A mobile home may be exempted under this chapter whether or not it is permanently affixed to the underlying land and whether or not the mobile home is placed upon a lot owned by the mobile home owner or a dependent of the owner. Property included in the homestead must be actually intended or used as the principal home for the owner.

(2) As used in this chapter (~~(, the term "owner")~~):

(a) "Owner" includes but is not limited to a purchaser under a deed of trust, mortgage, or real estate contract.

~~((3) As used in this chapter, the term "net")~~ (b) "Net value" means market value less all liens and encumbrances senior to the judgment being executed upon and not including the judgment being executed upon.

(c) "Forced sale" includes any sale of homestead property in a bankruptcy proceeding under Title 11 of the United States Code. The reinvestment provisions of RCW 6.13.070 do not apply to the proceeds.

(d) "Dependent" has the meaning given in Title 11 U.S.C. Sec. 522(a)(1).

Sec. 3. RCW 6.13.030 and 2007 c 429 s 1 are each amended to read as follows:

~~((A homestead may consist of lands, as described in RCW 6.13.010, regardless of area, but the homestead exemption amount~~

~~shall not exceed the lesser of (1) the total net value of the lands, manufactured homes, mobile home, improvements, and other personal property, as described in RCW 6.13.010, or (2) the sum of one hundred twenty five thousand dollars in the case of lands, manufactured homes, mobile home, and improvements, or the sum of fifteen thousand dollars in the case of other personal property described in RCW 6.13.010, except where)) (1) The homestead exemption amount is the greater of:~~

(a) \$125,000;

(b) The county median sale price of a single-family home in the preceding calendar year; or

(c) Where the homestead is subject to execution, attachment, or seizure by or under any legal process whatever to satisfy a judgment in favor of any state for failure to pay that state's income tax on benefits received while a resident of the state of Washington from a pension or other retirement plan, ((in which event there shall be)) no dollar limit ((on the value of the exemption)).

(2) In determining the county median sale price of a single-family home in the preceding year, a court shall use data from the Runstad department of real estate at the University of Washington or, if the Runstad department no longer provides the data, a successor entity designated by the office of financial management.

Sec. 4. RCW 6.13.060 and 2008 c 6 s 634 are each amended to read as follows:

The homestead of a spouse or domestic partner cannot be conveyed or encumbered unless the instrument by which it is conveyed or encumbered is executed and acknowledged by both spouses or both domestic partners, except that either spouse or both or either domestic partner or both jointly may make and execute powers of attorney for the conveyance or encumbrance of the homestead. The conveyance or encumbrance of the homestead does not require that any dependent of the owner who is not a spouse or domestic partner execute and acknowledge the instrument by which it is conveyed or encumbered.

Sec. 5. RCW 6.13.070 and 1987 c 442 s 207 are each amended to read as follows:

(1) Except as provided in RCW 6.13.080, the homestead is exempt from attachment and from execution or forced sale for the debts of the owner up to the amount specified in RCW 6.13.030.

(2) In a bankruptcy case, the debtor's exemption shall be determined on the date the bankruptcy petition is filed. If the value of the debtor's interest in homestead property on the petition date is less than or equal to the amount that can be exempted under RCW 6.13.030, then the debtor's entire interest in the property, including the debtor's right to possession and interests of no monetary value, is exempt. Any appreciation in the value of the debtor's exempt interest in the property during the bankruptcy case is also exempt, even if in excess of the amounts in RCW 6.13.030(1).

(3) The proceeds of the voluntary sale of the homestead in good faith for the purpose of acquiring a new homestead, and proceeds from insurance covering destruction of homestead property held for use in restoring or replacing the homestead property, up to the amount specified in RCW 6.13.030, shall likewise be exempt for one year from receipt, and also such new homestead acquired with such proceeds.

~~((2))~~ (4) Every homestead created under this chapter is presumed to be valid to the extent of all the property claimed exempt, until the validity thereof is contested in a court of general jurisdiction in the county or district in which the homestead is situated.

Sec. 6. RCW 6.13.080 and 2019 c 238 s 215 are each amended to read as follows:

The homestead exemption is not available against an execution or forced sale in satisfaction of judgments obtained:

(1) On debts secured by mechanic's, laborer's, construction, maritime, automobile repair, material supplier's, or vendor's liens arising out of and against the particular property claimed as a homestead;

(2) On debts secured:

(a) ~~((b))~~ By security agreements describing as collateral the property that is claimed as a homestead; or

(b) ~~((b))~~ By mortgages or deeds of trust on the premises that have been executed and acknowledged by both spouses

or both domestic partners or by any claimant not married or in a state registered domestic partnership. The execution and acknowledgment of a mortgage or deed of trust by a dependent who is not a spouse or domestic partner is not required;

(3) On one spouse's or one domestic partner's or the community's debts existing at the time of that spouse's or that domestic partner's bankruptcy filing where (a) bankruptcy is filed by both spouses or both domestic partners within a six-month period, other than in a joint case or a case in which their assets are jointly administered, and (b) the other spouse or other domestic partner exempts property from property of the estate under the bankruptcy exemption provisions of 11 U.S.C. Sec. 522(d);

(4) On debts arising from a lawful court order or decree or administrative order establishing a child support obligation or obligation to pay maintenance;

(5) On debts owing to the state of Washington for recovery of medical assistance correctly paid on behalf of an individual consistent with 42 U.S.C. Sec. 1396p;

(6) On debts secured by a condominium, homeowners', or common interest community association's lien; or

(7) On debts owed for taxes collected under chapters 82.08, 82.12, and 82.14 RCW but not remitted to the department of revenue.

Sec. 7. RCW 61.24.100 and 1998 c 295 s 12 are each amended to read as follows:

(1) Except to the extent permitted in this section for deeds of trust securing commercial loans, a deficiency judgment shall not be obtained on the obligations secured by a deed of trust against any borrower, grantor, or guarantor after a trustee's sale under that deed of trust.

(2)(a) Nothing in this chapter precludes an action against any person liable on the obligations secured by a deed of trust or any guarantor prior to a notice of trustee's sale being given pursuant to this chapter or after the discontinuance of the trustee's sale.

(b) No action under (a) of this subsection precludes the beneficiary from commencing a judicial foreclosure or trustee's sale under the deed of trust

after the completion or dismissal of that action.

(3) This chapter does not preclude any one or more of the following after a trustee's sale under a deed of trust securing a commercial loan executed after June 11, 1998:

(a)(i) To the extent the fair value of the property sold at the trustee's sale to the beneficiary or an affiliate of the beneficiary is less than the unpaid obligation secured by the deed of trust immediately prior to the trustee's sale, an action for a deficiency judgment against the borrower or grantor, if such person or persons was timely given the notices under RCW 61.24.040, for (A) any decrease in the fair value of the property caused by waste to the property committed by the borrower or grantor, respectively, after the deed of trust is granted, and (B) the wrongful retention of any rents, insurance proceeds, or condemnation awards by the borrower or grantor, respectively, that are otherwise owed to the beneficiary.

(ii) This subsection (3)(a) does not apply to any property that is occupied by the borrower as its principal residence as of the date of the trustee's sale;

(b) Any judicial or nonjudicial foreclosures of any other deeds of trust, mortgages, security agreements, or other security interests or liens covering any real or personal property granted to secure the obligation that was secured by the deed of trust foreclosed; or

(c) Subject to this section, an action for a deficiency judgment against a guarantor if the guarantor is timely given the notices under RCW 61.24.042.

(4) Any action referred to in subsection (3)(a) and (c) of this section shall be commenced within one year after the date of the trustee's sale, or a later date to which the liable party otherwise agrees in writing with the beneficiary after the notice of foreclosure is given, plus any period during which the action is prohibited by a bankruptcy, insolvency, moratorium, or other similar debtor protection statute. If there occurs more than one trustee's sale under a deed of trust securing a commercial loan or if trustee's sales are made pursuant to two or more deeds of trust securing the same commercial loan, the one-year limitation in this section begins on the date of the last of those trustee's sales.

(5) In any action against a guarantor following a trustee's sale under a deed of trust securing a commercial loan, the guarantor may request the court or other appropriate adjudicator to determine, or the court or other appropriate adjudicator may in its discretion determine, the fair value of the property sold at the sale and the deficiency judgment against the guarantor shall be for an amount equal to the sum of the total amount owed to the beneficiary by the guarantor as of the date of the trustee's sale, less the fair value of the property sold at the trustee's sale or the sale price paid at the trustee's sale, whichever is greater, plus interest on the amount of the deficiency from the date of the trustee's sale at the rate provided in the guaranty, the deed of trust, or in any other contracts evidencing the debt secured by the deed of trust, as applicable, and any costs, expenses, and fees that are provided for in any contract evidencing the guarantor's liability for such a judgment. If any other security is sold to satisfy the same debt prior to the entry of a deficiency judgment against the guarantor, the fair value of that security, as calculated in the manner applicable to the property sold at the trustee's sale, shall be added to the fair value of the property sold at the trustee's sale as of the date that additional security is foreclosed. This section is in lieu of any right any guarantor would otherwise have to establish an upset price pursuant to RCW 61.12.060 prior to a trustee's sale.

(6) A guarantor granting a deed of trust to secure its guaranty of a commercial loan shall be subject to a deficiency judgment following a trustee's sale under that deed of trust only to the extent stated in subsection (3) (a) (i) of this section. If the deed of trust encumbers the guarantor's principal residence, the guarantor shall be entitled to receive an amount up to ~~((the homestead exemption set forth in RCW 6.13.030))~~ \$125,000, without regard to the effect of RCW 6.13.080(2), from the bid at the foreclosure or trustee's sale accepted by the sheriff or trustee prior to the application of the bid to the guarantor's obligation.

(7) A beneficiary's acceptance of a deed in lieu of a trustee's sale under a deed of trust securing a commercial loan exonerates the guarantor from any liability for the debt secured thereby

except to the extent the guarantor otherwise agrees as part of the deed in lieu transaction.

(8) This chapter does not preclude a beneficiary from foreclosing a deed of trust in the same manner as a real property mortgage and this section does not apply to such a foreclosure.

(9) Any contract, note, deed of trust, or guaranty may, by its express language, prohibit the recovery of any portion or all of a deficiency after the property encumbered by the deed of trust securing a commercial loan is sold at a trustee's sale.

(10) A trustee's sale under a deed of trust securing a commercial loan does not preclude an action to collect or enforce any obligation of a borrower or guarantor if that obligation, or the substantial equivalent of that obligation, was not secured by the deed of trust.

(11) Unless the guarantor otherwise agrees, a trustee's sale shall not impair any right or agreement of a guarantor to be reimbursed by a borrower or grantor for a deficiency judgment against the guarantor.

(12) Notwithstanding anything in this section to the contrary, the rights and obligations of any borrower, grantor, and guarantor following a trustee's sale under a deed of trust securing a commercial loan or any guaranty of such a loan executed prior to June 11, 1998, shall be determined in accordance with the laws existing prior to June 11, 1998.

NEW SECTION. **Sec. 8.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

Signed by Representatives Frame, Chair; Berg, Vice Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Chase; Chopp; Harris-Talley; Morgan; Orwall; Ramel; Springer; Thai; Vick and Wylie.

MINORITY recommendation: Without recommendation. Signed by Representatives Dufault, Assistant Ranking Minority Member and Stokesbary.

Referred to Committee on Rules for second reading.

March 31, 2021

ESB 5454 Prime Sponsor, Senator Schoesler:
Providing property tax relief to
Washington citizens who lost their homes
in the labor day fires. (REVISED FOR
ENGROSSED: Creating a property tax
exemption for homes damaged by natural
disasters.) Reported by Committee on
Finance

MAJORITY recommendation: Do pass. Signed by
Representatives Frame, Chair; Berg, Vice Chair; Orcutt,
Ranking Minority Member; Dufault, Assistant Ranking
Minority Member; Chase; Chopp; Harris-Talley;
Morgan; Orwall; Ramel; Springer; Stokesbary; Thai;
Vick and Wylie.

MINORITY recommendation: Without
recommendation. Signed by Representative Walen,
Vice Chair.

Referred to Committee on Rules for second reading.

There being no objection, the bills and resolution listed
on the day's committee reports under the fifth order of
business were referred to the committees so designated.

There being no objection, the House adjourned until
9:55 a.m., April 2, 2021, the 82nd Legislative Day of the
Regular Session.

LAURIE JINKINS, Speaker

BERNARD DEAN, Chief Clerk

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