нв	800		JCED BY RAPP-SVRCEK, ET AL. DISCHARGE OF SUPPORT DELINQUENCIES IN CERTA INCOME WITHHOLDING CASES	IN .
		2/17	INTRODUCED	
		2/17	REFERRED TO JUDICIARY	
		2/20	HEARING	
		2/21	COMMITTEE REPORTBILL PASSED AS AMENDED	
		2/24	2ND READING PASSED 99	D
		2/24	3RD READING PASSED 100	0
			TRANSMITTED TO SENATE	
		3/02	REFERRED TO JUDICIARY	
		3/13	HEARING	
		3/16	ADVERSE COMMITTEE REPORT ADOPTED 47	2
		3/19	RETURNED TO HOUSE NOT CONCURRED	

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LC 1699/01

INTRODUCED BY Kapp much fally Marca Acus 1 2 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW DISCHARGE OF SUPPORT DELINOUENCIES IN CERTAIN ADMINISTRATIVE INCOME 5 WITHHOLDING CASES; AND AMENDING SECTIONS 40-5-413 б AND 40-5-414, MCA." 7

8

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA; 9

Section 1. Section 40-5-413, MCA, is amended to read: 10 "40-5-413. Notice of intent to withhold income --11 discharge of delinguency. (1) Prior to service of an order 12 on the payor to commence income withholding, the department 13 shall serve upon the obligor a notice of the intended 14 withholding action. The notice must contain a statement: 15

(a) of the amount to be withheld, including a 16 computation showing the period and total amount of the 17 arrearages as of the date of the notice; 18

(b) that withholding applies to all current 19 and 20 subsequent payors;

(c) of the obligor's right to a hearing under 40-5-414 21 to contest the implementation of income withholding on the 22 ground that withholding, including the amounts to be 23 withheld, is not proper because of mistake of fact; and 24 (d) of the period of time within which the obligor 25

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1 must request a hearing and that failure to request the hearing within the time limit will result in income 2 withholding orders being served upon the payor. з

(2) The notice must be served upon the obligor 4 5 personally or by certified mail.

6 (3) If at any time before an order to withhold and deliver income is issued under 40-5-415 an obligor who has 7 not previously been served with a notice of intent to 8 9 withhold income pays the total amount of support payments 10 due and payable plus an amount equal to or in excess of 1 month's support payment, no order to withhold income may be 11 made by the department and the withholding proceedings must 12 be terminated. This discharge of delinquency does not 13 affect or otherwise limit any action based upon any 14 15 subsequent delinguencies. (4) The name of an obligor whose delinguencies are 16 17 discharged under subsection (3) must be removed from any 18 list of offenders kept by the department." Section 2. Section 40-5-414, MCA, is amended to read: 19 "40-5-414. Hearing. (1) The obligor may within 10 days 20 being served with notice of the intended income 21 of withholding under 40-5-413 file with the department a 22 written request for an administrative hearing to be held 23 24 pursuant to the contested case provisions of Title 2, 25 chapter 4, part 6.

> INTRODUCED BILL -2-

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1 (2) If the obligor requests a hearing within the time 2 allowed, income withholding may not take effect until the 3 conclusion of the hearing or the date of the hearing if the 4 obligor fails to appear at a scheduled hearing.

5 (3) Venue for the administrative hearing may be in the 6 county where the obligor resides if the obligor resides in 7 this state, the county in which the payor or the payor's 8 agent is located, or the county in which the department or 9 any of its regional offices is located.

10 (4) The administrative hearing must be held by
11 teleconferencing methods unless the obligor or the
12 department expressly requests an in-person hearing before
13 the hearing examiner.

14 (5) For purposes of the hearing process, arrearages of 15 support must be computed on the basis of the amount owed and 16 unpaid on the date the obligor was served with the notice of 17 intent to withhold income, and the fact that the obligor may 18 have later paid the arrearage does not remove from the 19 hearing examiner the authority to direct the department to 20 order income withholding, except as provided in 40-5-413(3). 21 (6) The obligor within 45 days of service of the 22 notice of intent to withhold income must be informed of the 23 hearing decision on whether income withholding will take place." 24

25 NEW SECTION. Section 3. Extension of authority. Any

1 existing authority of the department of revenue to make

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2 rules on the subject of the provisions of this act is

3 extended to the provisions of this act.

-End-

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### 50th Legislature

1

HB 0800/02

#### APPROVED BY COMMITTEE ON JUDICIARY

HOUSE BILL NO. 800 2 INTRODUCED BY RAPP-SVRCEK, ADDY, MERCER, HANNAH 3 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW DISCHARGE OF 4 SUPPORT DELINQUENCIES IN CERTAIN ADMINISTRATIVE INCOME 5 WITHHOLDING CASES; AND AMENDING SECTION 40-5-413 6 7 AND-40-5-414, MCA." R 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 Section 1. Section 40-5-413, MCA, is amended to read: 11 "40-5-413. Notice of intent to withhold income --12 discharge of delinquency. (1) Prior to service of an order 13 on the payor to commence income withholding, the department 14 shall serve upon the obligor a notice of the intended 15 withholding action. The notice must contain a statement: 16 (a) of the amount to be withheld, including a computation showing the period and total amount of the 17 18 arrearages as of the date of the notice: (b) that withholding applies to all current and 19 20 subsequent payors; 21 (c) of the obligor's right to a hearing under 40-5-414 to contest the implementation of income withholding on the 22 23 ground that withholding, including the amounts to be 24 withheld, is not proper because of mistake of fact; and 25 (d) of the period of time within which the obligor

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1 must request a hearing and that failure to request the 2 hearing within the time limit will result in income withholding orders being served upon the payor. 3

4 (2) The notice must be served upon the obligor personally or by certified mail. 5

6 (3) If at--any--time--before-an-order-to-withhold-and

7 deliver-income-is-issued-under-40-5-415 an obligor who has

8 not previously been served with a notice of intent to

9 withhold income pays the total amount of support payments

10 due and payable plus an amount equal to or in excess of 1

11 month's support payment, no order to withhold income may be

made by the department and the withholding proceedings must 12

13 be terminated. This discharge of delinquency does not

affect or otherwise limit any action based upon any 14

15 subsequent delinguencies.

(4)--The-name-of-an--obligor--whose--delinguencies--are 16

17 discharged--under--subsection--(3)--must-be-removed-from-any

- list-of-offenders-kept-by-the-department-" 18
- 19 Section-2---Section-40-5-4147-MCA7-is-amended-to--read-#40-5-414---Hearing----(1)--The--obligor--may-within-10 20 21 days-of-being-served-with--notice--of--the--intended--income 22 withholding--under--40-5-413--file--with--the--department--a 23 written-request-for-an-administrative--hearing--to--be--held pursuant--to--the--contested--case--provisions--of--Title-27 24

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25 chapter-47-part-6-

SECOND READING

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(2)--If-the-obligor-requests-a-hearing-within-the--time
 allowed7--income--withholding--may-not-take-effect-until-the
 conclusion-of-the-hearing-or-the-date-of-the-hearing-if--the
 obligor-fails-to-appear-at-a-scheduled-hearing7

5 (3)--Venue-for-the-administrative-hearing-may-be-in-the 6 county--where--the-obligor-resides-if-the-obligor-resides-in 7 this-state7-the-county-in-which-the--payor-or--the--payor's 8 agent--is--located7-or-the-county-in-which-the-department-or 9 any-of-its-regional-offices-is-located-

10 (4)--The--administrative--hearing--must--be---held---by 11 teleconferencing---methods---unless---the---obligor--or--the 12 department-expressly-requests-an--in-person--hearing--before 13 the-hearing-examiner.

(5)--Por-purposes-of-the-hearing-process;-arrearages-of 14 support-must-be-computed-on-the-basis-of-the-amount-owed-and 15 unpaid-on-the-date-the-obligor-was-served-with-the-notice-of 16 17 intent-to-withhold-incomey-and-the-fact-that-the-obligor-may 18 have--later--paid--the--arrearage--does--not-remove-from-the 19 hearing-examiner-the-authority-to-direct-the--department--to 20 order-income-withholding;-except-as-provided-in-40-5-413(3); 21 (6)--The--obligor--within--45--days--of--service-of-the 22 notice-of-intent-to-withhold-income-must-be-informed-of--the 23 hearing--decision--on--whether--income-withholding-will-take 24 place."

25 NEW SECTION. Section 2. Extension of authority. Any

HB 0800/02

- 1 existing authority of the department of revenue to make
- 2 rules on the subject of the provisions of this act is
- 3 extended to the provisions of this act.

-End-

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1	HOUSE BILL NO. 800	1	must request a hearing and that failure to request the
2	INTRODUCED BY RAPP-SVRCEK, ADDY, MERCER, HANNAH	2	hearing within the time limit will result in income
3		3	withholding orders being served upon the payor.
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW DISCHARGE OF	4	(2) The notice must be served upon the obligor
5	SUPPORT DELINQUENCIES IN CERTAIN ADMINISTRATIVE INCOME	5	personally or by certified mail.
6	WITHHOLDING CASES; AND AMENDING SECTION 40-5-413	6	(3) If atanytimebefore-an-order-to-withhold-and
7	AND-40~5-414, MCA."	7	deliver-income-is-issued-under-40-5-415 an obligor who has
8		8	not previously been served with a notice of intent to
9	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	9	withhold income pays the total amount of support payments
10	Section 1. Section 40-5-413, MCA, is amended to read:	10	due and payable plus an amount equal to or in excess of 1
11	"40-5-413. Notice of intent to withhold income	11	month's support payment, no order to withhold income may be
12	discharge of delinguency. (1) Prior to service of an order	12	made by the department and the withholding proceedings must
13	on the payor to commence income withholding, the department	13	be terminated. This discharge of delinguency does not
14	shall serve upon the obligor a notice of the intended	14	affect or otherwise limit any action based upon any
15	withholding action. The notice must contain a statement:	15	subsequent delinquencies.
16	(a) of the amount to be withheld, including a	16	<u> 147The-name-of-anobligorwhosedelinguenciesare</u>
17	computation showing the period and total amount of the	17	discharged-undersubsection+3+must-be-removed-from-any
18	arrearages as of the date of the notice;	18	list-of-offenders-kept-by-the-department-"
19	(b) that withholding applies to all current and	19	Section-2Section-40-5-4147-MCA7-is-amended-toread:
20	subsequent payors;	20	40-5-414Hearing(1)Theobligormay-within-10
21	(c) of the obligor's right to a hearing under 40-5-414	21	days-of-being-served-withnoticeoftheintendedincome
22	to contest the implementation of income withholding on the	22	withholdingunder40-5-413filewiththedepartmenta
23	ground that withholding, including the amounts to be	23	written-request-for-an-administrativehearingtobeheld
24	withheld, is not proper because of mistake of fact; and	24	pursuanttothecontestedcaseprovisionsofPitle-27
25	(d) of the period of time within which the obligor	25	chapter-47-part-6-
	A		-2- HB 800
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÷ THIRD READING

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1 +2}--If-the-obligor-requests-a-hearing-within-the--time 2 allowedy--income--withholding--may-not-take-effect-until-the 3 conclusion-of-the-hearing-or-the-date-of-the-hearing-if--the 4 obligor-fails-to-appear-at-a-scheduled-hearing. 5 (3)--Venue-for-the-administrative-hearing-may-be-in-the 6 county--where--the-obligor-resides-if-the-obligor-resides-in 7 this-state;-the-county-in-which-the--payor--or--the--payor's 8 agent--is--located,-or-the-county-in-which-the-department-or 9 any-of-its-regional-offices-is-located.

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HB 800

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-End-

-4-