

HOUSE BILL 254

Introduced by McCaffree

1/19	Introduced
1/20	Referred to Taxation
1/20	First Reading
1/20	Fiscal Note Requested
1/25	Fiscal Note Received
1/25	Fiscal Note Printed
1/26	Hearing
1/28	Committee Report--Bill Passed as Amended
2/01	2nd Reading Passed
2/03	3rd Reading Failed
2/04	Reconsidered Previous Action
2/05	3rd Reading Passed
	Transmitted to Senate
2/08	First Reading
2/08	Referred to Local Government
3/04	Hearing
3/10	Committee Report--Bill Not Passed
3/10	Adverse Committee Report Adopted

1 House BILL NO. 254  
2 INTRODUCED BY M. Caffrey  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE FEE FOR  
5 FILING A MOTOR VEHICLE LIEN FROM \$4 TO \$8; DEPOSITING THE  
6 INCREASE IN THE COUNTY GENERAL FUND; AND AMENDING SECTION  
7 61-3-103, MCA."

8  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 61-3-103, MCA, is amended to read:

11 "61-3-103. Filing of security interests, perfection,  
12 rights, procedure, fees. (1) No A security interest in a  
13 motor vehicle shall--be is not valid as against creditors,  
14 subsequent purchasers, or encumbrancers unless a lien  
15 notice, on a form approved by the department, that shows a  
16 security interest has been created, has been perfected as  
17 provided in this section. The department shall may not file  
18 any security interest or other lien unless it is accompanied  
19 by or specified in the application for a certificate of  
20 ownership of the vehicle encumbered. If the approved notice  
21 form is transmitted to the department, the security  
22 agreement or other lien instrument that creates the security  
23 interest must be retained by the secured party. A copy of  
24 the security agreement is sufficient as a lien notice if it  
25 contains the name and address of the debtor and the secured

1 party, the complete vehicle description, amount of lien, and  
2 is signed by the debtor. The department shall file the  
3 security interest or lien by entering the name and address  
4 of the secured party upon the face of the certificate of  
5 ownership. The department shall mail a statement certifying  
6 to the filing of a security interest or lien to the secured  
7 party. The department shall mail the certificate of  
8 ownership to the owner at the address given on the  
9 certificate; however, if the transfer of ownership and  
10 filing of the security interest are paid for by a creditor  
11 or secured party, the department shall return the  
12 certificate of ownership to the county treasurer where the  
13 vehicle is to be registered. The owner of a motor vehicle is  
14 the person entitled to operate and possess such the motor  
15 vehicle.

16 (2) A security interest in a motor vehicle held as  
17 inventory by a dealer licensed under the provisions of  
18 61-4-101, must be perfected in accordance with Title 30,  
19 chapter 9, and no an endorsement on the certificate of title  
20 is not necessary for perfection.

21 (3) Whenever a security interest or lien is filed  
22 against a motor vehicle that is subject to two security  
23 interests previously perfected under this section, the  
24 department shall endorse on the face of the certificate of  
25 ownership, "NOTICE. This motor vehicle is subject to

1 additional security interests on file with the Department of  
 2 Justice." No--other Other information regarding such the  
 3 additional security interests does not need to be endorsed  
 4 on the certificate.

5 (4) Satisfactions or statements of release filed with  
 6 the department under this chapter shall must be retained by  
 7 it for a period of 8 years after receipt, after which they  
 8 may be destroyed.

9 (5) A security interest or other lien, as provided in  
 10 this section, is perfected on the date the lien notice and  
 11 the certificate of ownership or manufacturer's statement of  
 12 origin are delivered to the county treasurer. On that date,  
 13 the county treasurer shall issue to the secured party a  
 14 receipt evidencing the perfection. Perfection under this  
 15 section constitutes constructive notice to subsequent  
 16 purchasers or encumbrancers, from the date of delivery of  
 17 the lien notice to the county treasurer, of the existence of  
 18 the security interest.

19 (6) Security interests or other lien filings that do  
 20 not require transfer of ownership are perfected when  
 21 received by the department. On that date, the department  
 22 shall issue to the secured party a receipt evidencing the  
 23 perfection. Perfection under this subsection constitutes  
 24 constructive notice to subsequent purchasers or  
 25 encumbrancers, from the date the lien notice is delivered to

1 the department, of the existence of the security interest.

2 (7) Upon default under a chattel mortgage or  
 3 conditional sales contract covering a motor vehicle, the  
 4 mortgagee or vendor has the same remedies as in the case of  
 5 other personal property. In case of attachment of motor  
 6 vehicles, all the provisions of 27-18-413, 27-18-414, and  
 7 27-18-804 shall-be are applicable, except that deposits must  
 8 be made with the department.

9 (8) A conditional sales vendor or chattel mortgagee or  
 10 assignee who fails to file a satisfaction of a chattel  
 11 mortgage, assignment, or conditional sales contract within  
 12 15 days after receiving final payment shall-be is required  
 13 to pay the department the sum of \$1 for each day thereafter  
 14 after the deadline that he--fails--to--file---such the  
 15 satisfaction is not filed.

16 (9) Upon receipt of any liens, or notice of liens  
 17 dependent on possession, or attachments, etc. or otherwise,  
 18 against the record of any motor vehicle registered in this  
 19 state, the department shall within 24 hours mail to the  
 20 owner, conditional sale vendor, mortgagees, or assignees of  
 21 any thereof party a notice showing the name and address of  
 22 the lien claimant, amount of the lien, date of execution of  
 23 lien, and in the case of attachment the full title of the  
 24 court and the action and the name of the attorneys for the  
 25 plaintiff and/or and, if there is one, the attaching

creditor.

(10) It ~~shall~~ is not be necessary to refile with the department any instruments on file in the offices of the county clerk and recorders at the time this law takes effect.

(11) A ~~The fee of \$4 must be paid to the department to~~ file any security interest or other lien against a motor vehicle is \$8. The ~~\$4~~ \$8 fee ~~shall~~ must include and cover the cost of filing a satisfaction or release of the security interest and also the cost of entering such ~~the~~ satisfaction or release on the records of the department and deleting the endorsement of the security interest from the face of the certificate of ownership. A ~~The fee of \$4 must be paid the~~ department for issuing a certified copy of a certificate of ownership subject to a security interest or other lien on file in the office of the department, or for filing an assignment of any security interest or other lien on file with the department is \$8. All fees provided for in this section must be paid to the county treasurer for deposit as follows:

(a) \$4 in the county general fund; and

(b) \$4 in the state general fund in accordance with  
15-1-504."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0254, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act increasing the fee for filing a motor vehicle lien from \$4 to \$8 and depositing the increase in the county general fund.

ASSUMPTIONS:

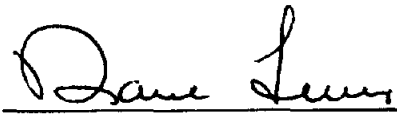
1. The increase in the motor vehicle lien filing fee will increase revenue for county general funds but will have no fiscal impact on state agency revenue or expenditures.

FISCAL IMPACT:

None to state agencies.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The state collected \$470,000 for lien filings in FY92. That same amount is estimated to be shared by counties in FY94 and FY95 under the fee increase proposed in this bill.

 1-25-93  
DAVE LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

 1/25/93  
ED MCCAFFREE, PRIMARY SPONSOR      DATE

Fiscal Note for HB0254, as introduced **HB 254**

APPROVED BY COMMITTEE  
ON TAXATION

HOUSE BILL NO. 254

INTRODUCED BY MCCAFFREE

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE FEE FOR FILING A MOTOR VEHICLE LIEN FROM \$4 TO \$8; DEPOSITING THE INCREASE IN THE COUNTY GENERAL FUND; AND AMENDING SECTION 61-3-103, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 61-3-103, MCA, is amended to read:

"61-3-103. Filing of security interests, perfection, rights, procedure, fees. (1) No A security interest in a motor vehicle shall--be is not valid as against creditors, subsequent purchasers, or encumbrancers unless a lien notice, on a form approved by the department, that shows a security interest has been created, has been perfected as provided in this section. The department shall may not file any security interest or other lien unless it is accompanied by or specified in the application for a certificate of ownership of the vehicle encumbered. If the approved notice form is transmitted to the department, the security agreement or other lien instrument that creates the security interest must be retained by the secured party. A copy of the security agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured

party, the complete vehicle description, amount of lien, and is signed by the debtor. The department shall file the security interest or lien by entering the name and address of the secured party upon the face of the certificate of ownership. The department shall mail a statement certifying to the filing of a security interest or lien to the secured party. The department shall mail the certificate of ownership to the owner at the address given on the certificate; however, if the transfer of ownership and filing of the security interest are paid for by a creditor or secured party, the department shall return the certificate of ownership to the county treasurer where the vehicle is to be registered. The owner of a motor vehicle is the person entitled to operate and possess such the motor vehicle.

(2) A security interest in a motor vehicle held as inventory by a dealer licensed under the provisions of 61-4-101, must be perfected in accordance with Title 30, chapter 9, and no an endorsement on the certificate of title is not necessary for perfection.

(3) Whenever a security interest or lien is filed against a motor vehicle that is subject to two security interests previously perfected under this section, the department shall endorse on the face of the certificate of ownership, "NOTICE". This motor vehicle is subject to

1 additional security interests on file with the Department of  
2 Justice." No--ether Other information regarding such the  
3 additional security interests does not need to be endorsed  
4 on the certificate.

5 (4) Satisfaction or statements of release filed with  
6 the department under this chapter shall must be retained by  
7 it for a period of 8 years after receipt, after which they  
8 may be destroyed.

9 (5) A security interest or other lien, as provided in  
10 this section, is perfected on the date the lien notice and  
11 the certificate of ownership or manufacturer's statement of  
12 origin are delivered to the county treasurer. On that date,  
13 the county treasurer shall issue to the secured party a  
14 receipt evidencing the perfection. Perfection under this  
15 section constitutes constructive notice to subsequent  
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2 (7) Upon default under a chattel mortgage or  
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5 other personal property. In case of attachment of motor  
6 vehicles, all the provisions of 27-18-413, 27-18-414, and  
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9 (8) A conditional sales vendor or chattel mortgagee or  
10 assignee who fails to file a satisfaction of a chattel  
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12 15 days after receiving final payment shall-be is required  
13 to pay the department the sum of \$1 for each day thereafter  
14 after the deadline that he--fails--to--file---such the  
15 satisfaction is not filed.

16 (9) Upon receipt of any liens, or notice of liens  
17 dependent on possession, or attachments, etc- or otherwise,  
18 against the record of any motor vehicle registered in this  
19 state, the department shall within 24 hours mail to the  
20 owner, conditional sale vendor, mortgagees, or assignees of  
21 any thereof party a notice showing the name and address of  
22 the lien claimant, amount of the lien, date of execution of  
23 lien, and in the case of attachment the full title of the  
24 court and the action and the name of the attorneys for the  
25 plaintiff and/or and, if there is one, the attaching

creditor.

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(a) \$4 in the county general fund; and

(b) \$4 in the state general fund in accordance with 15-1-504."

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