

House BILL NO 287

INTRODUCED BY

Ream Van Valkenburg
Hallyon

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE PRIORITY DATE FOR A TAX LIEN CREATED BY A WARRANT FOR DISTRAINT IS THE DATE THE TAX WAS DUE; PROVIDING THAT THE LIEN ON REAL OR PERSONAL PROPERTY CREATED BY A WARRANT FOR DISTRAINT IS NOT VALID AGAINST A THIRD PARTY WHO RECEIVED AN AFFIDAVIT FROM THE MOST RECENT GRANTOR CONFIRMING THAT ALL TAXES, ASSESSMENTS, PENALTIES, AND INTEREST DUE HAVE BEEN PAID; AMENDING SECTION 15-1-701, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 15-1-701, MCA, is amended to read:

"15-1-701. Warrant for distraint. (1) A warrant for distraint is an order, under the official seal of the department of revenue or of the department of transportation, directed to a sheriff of a county of Montana or to an agent authorized by law to collect a tax. The order commands the recipient to levy upon and sell the real and personal property of a delinquent taxpayer.

(2) Upon filing the warrant as provided in 15-1-704, there is a lien against all real and personal property of the delinquent taxpayer located in the county where the warrant is filed. The resulting lien is treated in the same manner as a properly docketed judgment lien, and the department may collect delinquent taxes and enforce the tax lien in the same manner as a judgment is enforced.

(3) A warrant may be issued for the amount of unpaid tax plus penalty, if any, and accumulated interest. The lien is for the amount indicated on the warrant plus accrued interest from the date of the warrant. The priority date of the tax lien created by filing the warrant for distraint is the date the tax was due as indicated on the warrant for distraint.

(4) The tax lien provided for in subsection (3) is not valid against any third party owning an interest in the real or personal property whose interest is recorded prior to the filing of the warrant for distraint if the third party receives from the most recent grantor of the interest an affidavit stating that all taxes,

1 assessments, penalties, and interest due from the grantor have been paid.

2 (5) A grantor who signs and delivers to the third party an affidavit as provided in subsection (4)
3 is subject to the penalties imposed by 15-30-321(3) if any part of the affidavit is untrue. An action under
4 15-30-321(3) to enforce this subsection may be brought in the name of the state by the department of
5 revenue, the department of transportation, or the attorney general to recover the civil penalty and any
6 delinquent taxes."

7

8 NEW SECTION. Section 2. Effective date -- applicability. [This act] is effective on passage and
9 approval and applies to warrants for distraint filed after December 31, 1995.

10

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0287, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing that the priority date for a tax lien created by a warrant for distraint is the date the tax was due; providing that the lien on real or personal property created by a warrant for distraint is not valid against a third party who received an affidavit from the most recent grantor confirming that all taxes, assessments, penalties, and interest due have been paid; and providing an immediate effective date and an applicability date.

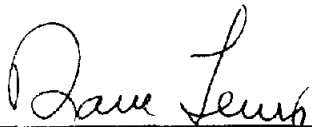
FISCAL IMPACT:


Expenditures:

There are no impacts to Department of Revenue expenditures under the proposed legislation.

Revenues:

The proposed legislation would improve the Department of Revenue's ability to collect delinquent taxes and should therefore increase revenue collections. However, the department does not have sufficient data to accurately estimate the increase in overall tax collections.

 1-23-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


BOB REAM, PRIMARY SPONSOR DATE
Fiscal Note for HB0287, as introduced

HB 287

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3 BY REQUEST OF THE DEPARTMENT OF REVENUE
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8 PERSONAL PROPERTY CREATED BY A WARRANT FOR DISTRAINT IS NOT VALID AGAINST A THIRD
9 PARTY WHO RECEIVED AN AFFIDAVIT FROM THE MOST RECENT GRANTOR CONFIRMING THAT ALL
10 TAXES, ASSESSMENTS, PENALTIES, AND INTEREST DUE HAVE BEEN PAID; PROVIDING THAT THE LIEN
11 ON REAL OR PERSONAL PROPERTY CREATED BY A WARRANT FOR DISTRAINT IS NOT VALID AGAINST
12 PURCHASERS, CERTAIN HOLDERS OF SECURITY INTERESTS, JUDGMENT LIEN CREDITORS, AND OTHER
13 LIENHOLDERS WHOSE INTEREST IS RECORDED PRIOR TO THE FILING OF THE WARRANT FOR
14 DISTRAINT; AMENDING SECTION 15-1-701, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE
15 AND AN APPLICABILITY DATE."

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22 Montana or to an agent authorized by law to collect a tax. The order commands the recipient to levy upon
23 and sell the real and personal property of a delinquent taxpayer.

24 (2) Upon filing the warrant as provided in 15-1-704, there is a lien against all real and personal
25 property of the delinquent taxpayer located in the county where the warrant is filed. The resulting lien is
26 treated in the same manner as a properly docketed judgment lien, THE DEPARTMENT IS A JUDGMENT LIEN
27 CREDITOR, and the department may collect delinquent taxes and enforce the tax lien in the same manner
28 as a judgment is enforced.

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10 ~~revenue, the department of transportation, or the attorney general to recover the civil penalty and any~~
11 ~~delinquent taxes.~~ THE TAX LIEN PROVIDED FOR IN (3) IS NOT VALID AGAINST PURCHASERS, HOLDERS
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13 71, CHAPTER 3, PARTS 3 THROUGH 15, WHOSE INTEREST IS RECORDED PRIOR TO THE FILING OF THE
14 WARRANT FOR DISTRAINT."

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16 NEW SECTION. Section 2. Effective date -- applicability. [This act] is effective on passage and
17 approval and applies to warrants for distraint filed after December 31, 1995.

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SENATE COMMITTEE OF THE WHOLE AMENDMENT

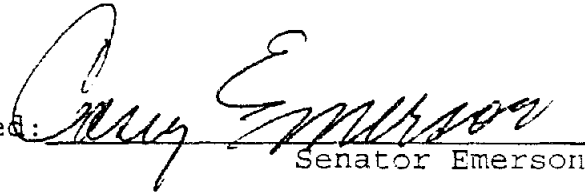
March 17, 1995 10:01 am

Mr. Chairman: I move to amend HB 287 (reference reading copy -- salmon).

ADOPT V.V.

REJECT

Signed:


Senator Emerson

That such amendments read:

1. Title, line 10.

Strike: "LIEN"

Insert: "ACCELERATED PRIORITY DATE"

2. Page 2, line 11.

Strike: "TAX LIEN"

Insert: "accelerated priority date"

-END-



Amd. Coord.

HB 287
SENATE

620958CW.SPV

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