

INTRODUCED BY Reuben Van Allen BY REQUEST OF THE DEPARTMENT OF REVENUE  
Gallegos

*Halligan* BY REQUEST OF THE DEPARTMENT OF REVENUE

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

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

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

16       **"15-1-701. Warrant for distraint.** (1) A warrant for distraint is an order, under the official seal of  
17 the department of revenue or of the department of transportation, directed to a sheriff of a county of  
18 Montana or to an agent authorized by law to collect a tax. The order commands the recipient to levy upon  
19 and sell the real and personal property of a delinquent taxpayer.

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

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

28        (4) The tax lien provided for in subsection (3) is not valid against any third party owning an interest  
29        in the real or personal property whose interest is recorded prior to the filing of the warrant for distraint if  
30        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."

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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.

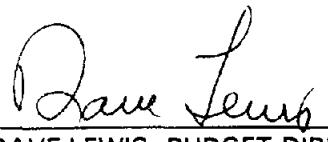
FISCAL IMPACT:

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.

 /-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

1 HOUSE BILL NO. 287  
2 INTRODUCED BY REAM, VAN VALKENBURG, HALLIGAN  
3 BY REQUEST OF THE DEPARTMENT OF REVENUE  
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-END-

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.

HB287  
SENATE  
620958CW.SPV

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