

SENATE BILL REPORT

SB 6338

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, FEBRUARY 3, 1994

Brief Description: Requiring delivery of a copy of a lien document to the owner of the real property subject to the lien.

SPONSORS: Senators A. Smith, Morton and Oke

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6338 be substituted therefor, and the substitute bill do pass.

Signed by Senators A. Smith, Chairman; Ludwig, Vice Chairman; Hargrove, Nelson, Quigley, Roach, Schow and Spanel.

Staff: Dick Armstrong (786-7460)

Hearing Dates: February 2, 1994; February 3, 1994

BACKGROUND:

A bill passed the Legislature in 1993 which was intended to ensure that property owners received notice that a federal lien had been filed against their property. The legislation provided that such liens could be filed only if the federal government certified that a copy of the lien document had been sent by registered or certified mail to the property owner.

The Governor vetoed the bill because it conflicted with a federal constitutional provision that vests Congress with exclusive authority to impose and collect federal taxes. Courts have held that states do not have authority to impose conditions on the collection of federal taxes, unless otherwise provided by Congress. In addition, the Governor noted that the bill discriminated against the federal government because state tax collection activities were not subject to such a notice requirement.

SUMMARY:

The original bill was not considered.

EFFECT OF PROPOSED SUBSTITUTE:

A federal, state or local government lien against real property may be recorded only upon certification that a copy of the lien document has been sent by registered or certified mail to the owner of the real property subject to the lien.

The notice requirement on federal liens is effective only if Congress authorizes such a procedure.

Appropriation: none

Revenue: none

Fiscal Note: requested

TESTIMONY FOR:

IRS filed a lien on a farmer without giving notice to the farmer. It took the farmer seven months to get the lien removed. Taxpayers should be notified if liens are placed on property.

TESTIMONY AGAINST: None

TESTIFIED: PRO: Senator Morton; Jim Thomas, Dept. of Revenue