

HOUSE BILL REPORT

HB 1570

As Reported By House Committee On:
Finance

Title: An act relating to the collection of taxes owed to taxing agencies.

Brief Description: Providing for the collection of taxes owed to taxing agencies.

Sponsors: Representative L. Thomas.

Brief History:

Committee Activity:

Finance: 2/23/95, 3/6/95 [DPS].

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives B. Thomas, Chairman; Boldt, Vice Chairman; Carrell, Vice Chairman; Morris, Ranking Minority Member; Dickerson, Assistant Ranking Minority Member; Hymes; Mason; Mulliken; Pennington; Schoesler; Sheldon and Van Luven.

Staff: Rick Peterson (786-7150).

Background: Liens are used by state agencies to enhance the collection of taxes. A lien is legal right to prevent a person from selling property without paying a debt. Often liens can be placed on any property that a debtor owns regardless of whether the property is involved in the debt. To satisfy a debt, the property on which a lien is placed may be taken and sold by the lien holder.

Each major state tax has statutory provisions for the placement of liens and the seizure of property to satisfy these liens. These statutes are different for each tax.

Summary of Substitute Bill: The bill creates a common tax lien and enforcement procedure for these major taxes: sales, use, business and occupation, motor vehicle fuel, worker's compensation, and unemployment compensation. The following lists the main elements of the revised tax lien and enforcement procedures.

- A lien is established from the date the agency demands the tax.

- The lien amount includes unpaid tax, interest, penalties, costs including subsequent collection costs and attorneys' fees.
- The lien attaches to all real and personal property of the taxpayer.
- The lien on real property may be recorded with the county auditor.
- The lien on personal property may be recorded with the Department of Licensing in Olympia (similar to Uniform Commercial Code and Internal Revenue Service recordings)
- A uniform form is provided for purposes of recording or filing notice of a tax lien.
- Liens may be foreclosed either judicially or nonjudicially.
- The taxing agency may seize and sell any personal property to satisfy the lien; the agency may also use the county sheriff for this purpose.
- After seizure the agency must inventory the property seized, post and publish notice of property to be sold, and time and place of the sale, notify other lien holders, and sell nonperishable goods no earlier than 28 days after posting (perishable goods may be sold sooner).
- The proceeds of the personal property sale are used to first pay the costs of the sale, and, second, to pay the tax, penalty, interest, and costs owed. Remaining moneys are returned to the taxpayer unless other security interest holders demand payment.
- A taxing agency may proceed immediately to collect tax if the agency has cause to believe collection of tax is jeopardized by delayed collection.

In addition, the bill requires private creditors to notify the state when they foreclose and provide the same information required by the IRS. When real property is sold by the county to pay delinquent property taxes, any money remaining after paying the property tax is made available to pay other state tax liens. Numerous statutes are revised to replace the terms "warrants" or "tax warrant" with "lien".

Substitute Bill Compared to Original Bill: The substitute bill: (1) Clarifies and expands the types of security interests and liens which will have priority over a tax lien that is filed or recorded subsequent to the date on which the security interest attaches on the same property; (2) Restores current 1 percent per month interest charge from date of issuance of notice of Department of Revenue lien; (3) Retains current procedure for returning excess funds from the sale of property to the property owner unless there are competing claims for the refunds; (4) Extends the current \$20 surcharge on filing of tax warrants to the filing of tax liens, thereby allowing the Secretary of State to continue providing archive services to local governments; (5) limits the life of the lien to 20 years; and (6) delays the effective date until January 2, 1996.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect January 2, 1996.

Testimony For: (original bill) This is a common sense approach to collecting taxes. Existing language is arcane and archaic. The Attorney General's Office has worked all interim with interested parties to develop a bill. This bill streamlines the process and makes a single procedure for all major state taxes. It gives the departments greater clarity in enforcing the law and recouping money owed the state. An amendment is needed to restore the funding mechanism for archiving local government records. An amendment is also needed to determine where excess monies would go if there are no competing claims on the money owed to the state or local governments.

Testimony Against: (original bill) The bill needs substantial clarification on the filing of liens.

Testified: Representative Les Thomas, prime sponsor; David Walsh and Zack Mosnar, Office of the Attorney General; Mike Saunders, Secretary of State, Archives Division (pro with an amendment); Chet Wainhouse, Washington Land Title Association (con); Meara Nisbet and Rick Schroeder, Washington Bankers Association; Roger Dodd, Department of Revenue; Pete Anthony, Office of Financial Management; and Fred Saeger, Washington Association of County Officials (needs an amendment).