

HOUSE BILL REPORT

HB 3092

As Reported by House Committee On: Finance

Title: An act relating to allowing the department of revenue to issue a notice of lien to secure payment of delinquent excise taxes in lieu of a warrant.

Brief Description: Allowing the department of revenue to issue a notice of lien to secure payment of delinquent excise taxes in lieu of a warrant.

Sponsors: Representatives Orcutt and Hunter.

Brief History:

Committee Activity:

Finance: 2/2/10, 2/9/10 [DP].

Brief Summary of Bill

- Allows the Department of Revenue to issue a notice of lien for specific real property in lieu of a tax warrant.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 9 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Orcutt, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Condotta, Conway, Ericks, Santos and Springer.

Staff: Jeffrey Mitchell (786-7139).

Background:

A tax warrant is a document that the Department of Revenue (DOR) uses to establish the debt of a taxpayer. When a tax warrant is filed with the superior court in the county where the taxpayer owns real or personal property, a lien is created. The lien is subordinate to bona fide interests of third persons that vested before the filing of the warrant. The lien encumbers all real and personal property used in the business and owned by the taxpayer. The tax lien becomes a public record. Under this lien authority, the DOR may also enforce collections of

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a tax debt. Examples of enforced collections include: levy of bank accounts, garnishment of wages, and seizure and sale of assets or real property.

Summary of Bill:

In lieu of filing a tax warrant with a superior court, the Department of Revenue (DOR) may file a notice of lien for any real property in which the taxpayer has an ownership interest if the total amount of the warrant exceeds \$25,000, and the DOR determines that issuing the notice of lien would best protect the state's interest in collecting the amount due on the warrant. A notice of lien would be a lien against specific real property as opposed to all real property when a tax warrant is used.

If a tax warrant has already been filed with a superior court, the DOR may issue and record a notice of lien against real property and file a conditional satisfaction of the warrant with the court if the DOR determines that this is in the best interest of collecting the amount due on the warrant. The filing of a conditional satisfaction releases any liens on real or personal property.

If a taxpayer requests the DOR to file a notice of lien in lieu of a warrant, the DOR may request the taxpayer's current credit report and an abstract of title, at the taxpayer's expense, for the property that will be subject to the notice of lien.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on January 1, 2011.

Staff Summary of Public Testimony:

(In support) When a tax lien is placed on business property it is a lien on an entire company making it difficult for a company to bid on jobs. If a company cannot bid on jobs, a company cannot make money to pay back taxes. This bill provides another tool allowing for a lien on a specific piece of property. This frees the business up to allow them to get the contracts it needs so the business can make money and pay its taxes. When the economy crashed, companies had some problems and got behind on some taxes. Companies must get bonding to bid on construction jobs and as soon as there is a lien on business property, the bonding company won't work with the business anymore. Also, competitors point out to potential clients that a business is behind on their taxes. People may have a lot of other properties worth far more than their business tax obligations but no current authority exists for the Department of Revenue to lien those properties. This bill would allow for that. The Department would not use this tool frequently but it would allow for some flexibility in those instances where it appears that it would be in the best interest of the state in collecting unpaid taxes and allowing the businesses to continue operating.

(Opposed) None.

Persons Testifying: Representative Orcutt, prime sponsor; Dave Creagan, Creagan Excavating; and Amber Carter, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.