

SENATE BILL REPORT

HB 1239

As of March 10, 2011

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, Hunter, Johnson and Rivers.

Brief History: Passed House: 2/25/11, 97-0.

Committee Activity: Ways & Means: 3/10/11.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Dianne Criswell (786-7433)

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 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, 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 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, DOR may issue and record a notice of lien against real property and file a conditional satisfaction of the warrant with the court if 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.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

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.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on January 1, 2012.

Staff Summary of Public Testimony: PRO: A constituent brought this idea forward after his business fell behind on tax payments and had a lien placed on all of his property pursuant to a tax warrant. Because of the lien, the contractor could not bid on any jobs. Since the contractor could not bid on any jobs, the owner was not able to generate revenue to pay back taxes. Employers in this economy are making the difficult decision to pay their employees or pay their taxes. The bill doesn't permit non-payment; instead, it provides some flexibility and allows businesses to pay taxes. It solves real problems for real people.

Persons Testifying: PRO: Representative Orcutt, prime sponsor; Amber Carter, Association of Washington Business.