

1 SENATE BILL NO. 8

2 INTRODUCED BY J. COHENOUR

3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A WARRANT FOR DISTRAINT CREATES A
6 LIEN AGAINST ~~ALL CERTAIN~~ PERSONAL PROPERTY LOCATED WITHIN THE BOUNDARIES OF
7 MONTANA OWNED BY A DELINQUENT TAXPAYER; AMENDING SECTION 15-1-701, MCA; AND
8 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

13 **"15-1-701. Warrant for distraint.** (1) A warrant for distraint is an order, under the official seal of the
14 department or of the department of transportation, directed to a sheriff of a county of Montana or to an agent
15 authorized by law to collect a tax. The order commands the recipient to levy upon and sell the real and personal
16 property of a delinquent taxpayer.

17 (2) (A) Upon filing the warrant as provided in 15-1-704, there is a lien against all real and personal
18 AND PERSONAL property of the delinquent taxpayer located in the county where the warrant is filed.

19 (B) Upon filing the warrant, there is a lien against ~~all personal property of the delinquent taxpayer~~
20 located in any county in the state. :

21 (I) ALL FUNDS IN DEMAND, SAVINGS, OR TIME DEPOSITS IN WHICH THE DELINQUENT TAXPAYER HAS
22 OWNERSHIP INTEREST AND THAT ARE HELD IN BANKING INSTITUTIONS;

23 (II) WAGES AND COMPENSATION OWED TO THE DELINQUENT TAXPAYER;

24 (III) STOCK, EQUITY INTERESTS, AND INVESTMENT ACCOUNTS IN WHICH THE DELINQUENT TAXPAYER HAS
25 OWNERSHIP INTEREST; AND

26 (IV) ANY OTHER MONEY DUE AND OWING TO THE DELINQUENT TAXPAYER IN ANY COUNTY IN THE STATE.

27 (3) The resulting lien is treated in the same manner as a properly docketed judgment lien, the
28 department is a judgment lien creditor, and the department may collect delinquent taxes and enforce the tax

1 lien in the same manner as a judgment is enforced, except that the department may enforce the judgment lien
2 at any time within 10 years of its creation or effective date, whichever is later.

3 ~~(3)~~ (4) A warrant may be issued for the amount of unpaid tax plus accumulated penalty, if any, and
4 accumulated interest. The lien is for the amount indicated on the warrant plus accrued penalty and interest from
5 the date of the warrant. The priority date of the tax lien created by filing the warrant for distraint is the date the
6 tax was due as indicated on the warrant for distraint.

7 (4) (5) The accelerated priority date provided for in subsection ~~(3)~~ (4) is not valid against purchasers,
8 holders of security interests, judgment lien creditors, and those lienholders identified in Title 71, chapter 3, parts
9 3 through 15, whose interest is recorded prior to the filing of the warrant for distraint."

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11 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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