

1 SENATE BILL NO. 42

2 INTRODUCED BY J. COHENOUR

3 BY REQUEST OF THE DEPARTMENT OF REVENUE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A WARRANT FOR DISTRAINT CREATES A
6 LIEN AGAINST ALL PERSONAL PROPERTY LOCATED WITHIN THE BOUNDARIES OF MONTANA OWNED
7 BY A DELINQUENT TAXPAYER; AMENDING SECTION 15-1-701, MCA; AND PROVIDING AN IMMEDIATE
8 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) Upon filing the warrant as provided in 15-1-704, there is a lien against all real ~~and personal~~ property
18 of the delinquent taxpayer located in the county where the warrant is filed. Upon filing the warrant, there is a lien
19 against all personal property of the delinquent taxpayer located in any county in the state. The resulting lien is
20 treated in the same manner as a properly docketed judgment lien, the department is a judgment lien creditor, and
21 the department may collect delinquent taxes and enforce the tax lien in the same manner as a judgment is
22 enforced, except that the department may enforce the judgment lien at any time within 10 years of its creation
23 or effective date, whichever is later.

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

28 (4) The accelerated priority date provided for in subsection (3) is not valid against purchasers, holders
29 of security interests, judgment lien creditors, and those lienholders identified in Title 71, chapter 3, parts 3 through
30 15, whose interest is recorded prior to the filing of the warrant for distraint."

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

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