

1 HOUSE BILL NO. 118
2 INTRODUCED BY M. BERTOGLIO
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 PERSONAL PROPERTY LOCATED WITHIN THE BOUNDARIES OF MONTANA OWNED BY
7 A DELINQUENT TAXPAYER; AMENDING SECTION 15-1-701, MCA; AND PROVIDING AN IMMEDIATE
8 EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11

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~~on and sell the real and
16 personal property of a delinquent taxpayer.

17 (2)— (a) Upon On filing the warrant as provided in 15-1-704, there is a lien:

18 (i) _____ against all real and personal property of the delinquent taxpayer located in the county where
19 the warrant is filed; and

20 (ii) _____ against ~~all monies~~ MONEY of the delinquent taxpayer in the state; ~~including~~ LIMITED TO:

21 (A) _____ monies due and owing to the delinquent taxpayer;

22 (B)(A) all funds in demand, savings, or time deposits held in banking institutions in which a delinquent
23 taxpayer has ownership interest;

24 (C)(B) wages and compensation owed to a delinquent taxpayer; and

25 (D)(C) stock, equity interests, and investment accounts in which the delinquent taxpayer has
26 ownership interest.

27 (b) _____ The lien provided for in subsection (2)(a)(ii):

Amendment - 1st Reading/2nd House-blue - Requested by: Forrest Mandeville - (S) Local Government

- 2023

68th Legislature 2023

Drafter: Toni Henneman, 406-444-3593

HB0118.002.001

1 ~~(i) is imposed in any county of the state, regardless of the location of the delinquent taxpayer MAY~~
2 ~~ATTACH TO THE MONEY IN ANY COUNTY OF THE STATE, REGARDLESS OF THE LOCATION OF THE DELINQUENT TAXPAYER~~
3 ~~OR THE COUNTY IN WHICH THE WARRANT IS FILED. HOWEVER, UNTIL THE EXECUTION OF THE WARRANT AND NOTICE OF~~
4 ~~LEVY OCCURS AS PROVIDED IN 15-1-706, THE PROPERTY DESCRIBED IN SUBSECTION (2)(A)(II) IS NOT SUBJECT TO OR~~
5 ~~AFFECTED BY THE LIEN; and~~

6 ~~(ii) may not be enforced against a delinquent taxpayer's money received by and in the possession~~
7 ~~of a person in a county where the warrant is not filed if the recipient had no actual notice or no actual~~
8 ~~knowledge of the execution of the warrant and notice of levy that created the lien.~~

9 (3) The resulting lien in subsection (2) is treated in the same manner as a properly docketed
10 judgment lien, the department is a judgment lien creditor, and the department may collect delinquent taxes and
11 enforce the tax lien in the same manner as a judgment is enforced, except that the department may enforce the
12 judgment lien at any time within 10 years of its creation or effective date, whichever is later.

13 (3)(4) — A warrant may be issued for the amount of unpaid tax plus accumulated penalty, if any,
14 and accumulated interest. The lien is for the amount indicated on the warrant plus accrued penalty and interest
15 from the date of the warrant. The priority date of the tax lien created by filing the warrant for distraint is the date
16 the tax was due as indicated on the warrant for distraint.

17 (4)(5) The accelerated priority date provided for in subsection (3)-(4) is not valid against purchasers,
18 holders of security interests, judgment lien creditors, and those lienholders identified in Title 71, chapter 3, parts
19 3 through 15, whose interest is recorded prior to the filing of the warrant for distraint."

20
21 **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

22 - END -