

Finance Committee

HB 3092

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 Summary of Bill

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

Hearing Date: 2/2/10

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 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

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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.