

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) ~~is imposed in any county of the state, regardless of~~  
28 ~~the location of the delinquent taxpayer~~ MAY ATTACH TO THE MONEY IN ANY COUNTY OF THE STATE, REGARDLESS OF



1 THE LOCATION OF THE DELINQUENT TAXPAYER OR THE COUNTY IN WHICH THE WARRANT IS FILED. HOWEVER, UNTIL THE  
2 EXECUTION OF THE WARRANT AND NOTICE OF LEVY OCCURS AS PROVIDED IN 15-1-706, THE PROPERTY DESCRIBED IN  
3 SUBSECTION (2)(A)(II) IS NOT SUBJECT TO OR AFFECTED BY THE LIEN.

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

8 ~~(3)(4)~~— \_\_\_\_\_ A warrant may be issued for the amount of unpaid tax plus accumulated penalty, if any,  
9 and accumulated interest. The lien is for the amount indicated on the warrant plus accrued penalty and interest  
10 from the date of the warrant. The priority date of the tax lien created by filing the warrant for distraint is the date  
11 the tax was due as indicated on the warrant for distraint.

12 ~~(4)(5)~~ The accelerated priority date provided for in subsection ~~(3)-(4)~~ is not valid against purchasers,  
13 holders of security interests, judgment lien creditors, and those lienholders identified in Title 71, chapter 3, parts  
14 3 through 15, whose interest is recorded prior to the filing of the warrant for distraint."  
15

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

17 - END -