

CERTIFICATION OF ENROLLMENT

**HOUSE BILL 1239**

62nd Legislature  
2011 Regular Session

Passed by the House February 25, 2011  
Yeas 97 Nays 0

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**Speaker of the House of Representatives**

Passed by the Senate April 7, 2011  
Yeas 47 Nays 0

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**President of the Senate**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1239** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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HOUSE BILL 1239

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Passed Legislature - 2011 Regular Session

State of Washington                      62nd Legislature                      2011 Regular Session

By Representatives Orcutt, Hunter, Johnson, and Rivers

Read first time 01/17/11. Referred to Committee on Ways & Means.

1            AN ACT Relating to allowing the department of revenue to issue a  
2 notice of lien to secure payment of delinquent excise taxes in lieu of  
3 a warrant; amending RCW 82.32.210; adding a new section to chapter  
4 82.32 RCW; and providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6            **Sec. 1.** RCW 82.32.210 and 2001 c 146 s 12 are each amended to read  
7 as follows:

8            (1) If any fee, tax, increase, or penalty or any portion thereof is  
9 not paid within fifteen days after it becomes due, the department (~~of~~  
10 ~~revenue~~) may issue a warrant in the amount of (~~such~~) the unpaid  
11 sums, together with interest thereon from the date the warrant is  
12 issued until the date of payment. If, however, the department (~~of~~  
13 ~~revenue~~) believes that a taxpayer is about to cease business, leave  
14 the state, or remove or dissipate the assets out of which fees, taxes  
15 or penalties might be satisfied and that any tax or penalty will not be  
16 paid when due, it may declare the fee, tax or penalty to be immediately  
17 due and payable and may issue a warrant immediately.

18            (a) Interest imposed before January 1, 1999, (~~shall be~~) is

1 computed at the rate of one percent of the amount of the warrant for  
2 each thirty days or portion thereof.

3 (b) Interest imposed after December 31, 1998, (~~shall be~~) is  
4 computed on a daily basis on the amount of outstanding tax or fee at  
5 the rate as computed under RCW 82.32.050(2). The rate so computed  
6 (~~shall~~) must be adjusted on the first day of January of each year for  
7 use in computing interest for that calendar year. As used in this  
8 subsection, "fee" does not include an administrative filing fee such as  
9 a court filing fee and warrant fee.

10 (2) Except as provided in section 2 of this act, the department  
11 (~~shall~~) must file a copy of the warrant with the clerk of the  
12 superior court of any county of the state in which real and/or personal  
13 property of the taxpayer may be found. The clerk is entitled to a  
14 filing fee under RCW 36.18.012(10). Upon filing, the clerk (~~shall~~)  
15 will enter in the judgment docket, the name of the taxpayer mentioned  
16 in the warrant and in appropriate columns the amount of the fee, tax or  
17 portion thereof and any increases and penalties for which the warrant  
18 is issued and the date when the copy is filed(~~, and thereupon~~). The  
19 amount of the warrant so docketed (~~shall become~~) is a specific lien  
20 upon all goods, wares, merchandise, fixtures, equipment, or other  
21 personal property used in the conduct of the business of the taxpayer  
22 against whom the warrant is issued, including property owned by third  
23 persons who have a beneficial interest, direct or indirect, in the  
24 operation of the business, and no sale or transfer of the personal  
25 property in any way affects the lien.

26 (3) The lien (~~shall~~) is not (~~be~~) superior, however, to bona  
27 fide interests of third persons (~~which had~~) that vested (~~prior to~~)  
28 before the filing of the warrant when the third persons do not have a  
29 beneficial interest, direct or indirect, in the operation of the  
30 business, other than (~~the securing of the~~) to secure payment of a  
31 debt or (~~the receiving of~~) to receive a regular rental on equipment.  
32 The phrase "bona fide interests of third persons" does not include any  
33 mortgage of real or personal property or any other credit transaction  
34 that results in the mortgagee or the holder of the security acting as  
35 trustee for unsecured creditors of the taxpayer mentioned in the  
36 warrant who executed the chattel or real property mortgage or the  
37 document evidencing the credit transaction.

1 (4) The amount of the warrant so docketed (~~shall thereupon~~) is  
2 also (~~become~~) a lien upon the title to and interest in all other real  
3 and personal property of the taxpayer against whom it is issued the  
4 same as a judgment in a civil case duly docketed in the office of the  
5 clerk. The warrant so docketed (~~shall be~~) is sufficient to support  
6 the issuance of writs of garnishment in favor of the state (~~in the~~  
7 ~~manner~~) as provided by law (~~in the case of~~) for judgments wholly or  
8 partially unsatisfied.

9 NEW SECTION. Sec. 2. A new section is added to chapter 82.32 RCW  
10 to read as follows:

11 (1) To secure payment of a tax warrant issued by the department  
12 under RCW 82.32.210, the department may issue a notice of lien against  
13 any real property in which the taxpayer against whom the warrant was  
14 issued has an ownership interest, if the total amount for which the  
15 warrant was issued exceeds twenty-five thousand dollars and the  
16 department determines that issuing the notice of lien would best  
17 protect the state's interest in collecting the amount due on the  
18 warrant. The department must file the notice of lien with the  
19 recording officer of the county where the real property is located.  
20 The recording officer is entitled to a filing fee as provided under RCW  
21 36.18.010.

22 (2)(a) Except as otherwise provided in this section, recording a  
23 notice of lien as authorized in this section is in lieu of filing with  
24 the clerk of the superior court a copy of the warrant secured by the  
25 notice of lien.

26 (b) Notwithstanding (a) of this subsection (2), the department may  
27 file with the superior court a warrant that is secured by a notice of  
28 lien under this section if: (i) The department determines that filing  
29 the warrant is in the best interest of collecting the amount due on the  
30 tax warrant; or (ii) the warrant remains unpaid six months after the  
31 notice of lien was issued.

32 (3) If a warrant has been filed with the clerk of the superior  
33 court, the department may issue and record a notice of lien against  
34 real property of the taxpayer and file a conditional satisfaction of  
35 the warrant with the clerk of the superior court of the county in which  
36 the warrant was filed, if the department determines that such actions  
37 are in the best interest of collecting the amount due on the warrant.

1 (a) A warrant for which a conditional satisfaction is filed will  
2 continue to accrue interest on the unpaid balance as provided in RCW  
3 82.32.210.

4 (b)(i) The department may refile a warrant for which a conditional  
5 satisfaction has been filed if: (A) The department determines that  
6 refiling the warrant is in the best interest of collecting the amount  
7 due on the warrant; or (B) the warrant remains unpaid six months after  
8 the notice of lien was issued.

9 (ii) A warrant is refiled in the same manner as it was originally  
10 filed.

11 (c) A warrant that is refiled as provided in this subsection (3)  
12 reinstates the liens provided under RCW 82.32.210 as of the date the  
13 warrant is refiled.

14 (d) For the purposes of this subsection (3), a "conditional  
15 satisfaction" is a document issued by the department, which, when filed  
16 with the clerk of the superior court of the county in which the warrant  
17 was filed, releases the liens provided under RCW 82.32.210 without  
18 prejudice to refile the warrant at a later date.

19 (4) When a taxpayer has requested the department to use the  
20 collection authority under this section, in order to determine if the  
21 issuance of a notice of lien would best protect the state's interest in  
22 collecting the amount due on the warrant, the department may require  
23 the taxpayer to:

24 (a) Provide, at the taxpayer's expense, the department with a  
25 current abstract of title as defined by RCW 48.29.010 from a title  
26 insurer that possesses a certificate of authority issued under Title 48  
27 RCW; and

28 (b) Authorize the department to obtain the taxpayer's current  
29 credit report.

30 (5) A notice of lien issued under this section must include the  
31 following information:

32 (a) The name of the taxpayer who has an interest in the real  
33 property against which the notice of lien is filed;

34 (b) The taxpayer's tax registration number issued as provided in  
35 RCW 82.32.030;

36 (c) The number of the warrant issued by the department;

37 (d) The amount for which the warrant was issued;

1 (e) The legal description, tax parcel number assigned under RCW  
2 84.40.160, and the street address, if available, of the real property  
3 against which the notice of lien is issued; and

4 (f) Any other information the department determines would be  
5 useful.

6 (6) The notice of lien issued under this section is superior to all  
7 other liens and encumbrances, except:

8 (a) Bona fide interests of third persons that had vested prior to  
9 the recording of the notice of lien, if the third persons do not have  
10 a beneficial interest, direct or indirect, in the operation of the  
11 taxpayer's business, other than the securing of the payment of a debt  
12 or the receiving of a regular rental on equipment. For purposes of  
13 this subsection, "bona fide interests of third persons" has the same  
14 meaning as in RCW 82.32.210; and

15 (b) Property taxes and special assessments against the property.

16 (7) The department must release a notice of lien issued under this  
17 section as soon as practicable after receipt of payment in full of the  
18 amount due on the warrant secured by the notice of lien, including  
19 interest accrued as provided in RCW 82.32.210(1) and all recording fees  
20 claimed by the recording officer for the recording of the notice of  
21 lien and the release of the lien.

22 (8) The department must release a notice of lien issued under this  
23 section within fourteen days if the notice of lien was issued in error.

24 NEW SECTION. **Sec. 3.** This act takes effect January 1, 2012.

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