
SUBSTITUTE HOUSE BILL 1570

State of Washington

54th Legislature

1995 Regular Session

By House Committee on Finance (originally sponsored by Representative L. Thomas)

Read first time 03/06/95.

1 AN ACT Relating to the collection of taxes owed to taxing agencies;
2 amending RCW 50.24.060, 51.16.155, 51.48.140, 51.48.160, 51.48.210,
3 51.48.230, 82.32.090, 82.32.215, 82.32.235, 82.32.330, 82.32.340,
4 84.64.080, 40.14.027, 49.52.040, 50.12.220, 50.44.060, 82.32.265, and
5 82.42.060; adding new sections to chapter 61.24 RCW; adding a new
6 chapter to Title 60 RCW; repealing RCW 46.87.340, 46.87.360, 46.87.370,
7 50.24.040, 50.24.050, 50.24.080, 50.24.090, 50.24.100, 50.24.115,
8 51.16.170, 51.16.180, 51.48.170, 51.48.180, 51.48.190, 51.48.200,
9 51.48.220, 82.32.210, 82.32.220, 82.32.230, 82.32.245, 82.36.047,
10 82.36.110, 82.36.130, 82.37.090, 82.38.210, 82.38.230, and 82.38.235;
11 and providing an effective date.

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

13 NEW SECTION. **Sec. 1.** This chapter shall be known as the taxpayer
14 fairness and relief act.

15 NEW SECTION. **Sec. 2.** The legislature finds that complexities in
16 applying the existing state tax statutes is preventing the state from
17 collecting significant amounts of taxes owed by taxpayers who fail to
18 voluntarily pay their taxes as they come due. As a result other

1 taxpayers must pay more than their fair share. The intention of the
2 legislature in this chapter is to provide a more effective, uniform,
3 and fair collection of state taxes, thereby protecting taxpayers who
4 pay their taxes voluntarily and enhancing the revenues of the state.

5 NEW SECTION. **Sec. 3.** Unless the context clearly requires
6 otherwise, the definitions in this section apply throughout this
7 chapter.

8 (1) "Tax" means the following taxes and contributions:

9 (a) Employers' contributions under Title 50 RCW;

10 (b) Premiums under Title 51 RCW;

11 (c) Taxes subject to the provisions of chapter 82.32 RCW, under RCW
12 82.32.010, except the watercraft excise tax under chapter 82.49 RCW;

13 (d) Motor vehicle fuel tax under chapter 82.36 RCW;

14 (e) Special fuel tax under chapter 82.38 RCW;

15 (f) Motor vehicle fuel importer tax under chapter 82.37 RCW; and

16 (g) Taxes required under the proportional registration provisions
17 of chapter 46.87 RCW.

18 (2) "Taxpayer" means any person or entity, other than a taxing
19 agency of the state, liable for the payment or collection of any tax.

20 NEW SECTION. **Sec. 4.** If any person or entity liable for a tax
21 fails to pay the tax, after demand, a lien in favor of the state of
22 Washington shall arise and be fully perfected on the date of the demand
23 for the tax. The lien amount shall include any unpaid interest,
24 penalties, and costs including subsequent collection costs and
25 attorneys' fees as provided in section 18 of this act. The lien shall
26 attach to all property and rights to property, whether real or
27 personal, belonging to the person or entity or thereafter acquired
28 during the existence of the lien. The lien created by this section
29 shall be subordinate to:

30 (1) Any consensual security interest in real property or personal
31 property (including rents and fixtures) and the interest of any bona
32 fide purchaser for value (including a purchaser under a real estate
33 contract) that is recorded or filed against such property pursuant to
34 applicable law or is otherwise perfected in accordance with Title 62A
35 RCW; and

36 (2) Any lien arising under a statute of the state of Washington,
37 including the lien of any judgment, execution, attachment, or

1 garnishment, that attaches to real or personal property, and any right
2 of setoff or common law possessory lien on securities or documents that
3 arises prior to the recording or filing of notice of the lien in
4 accordance with sections 5 and 6 of this act, as applicable.

5 NEW SECTION. **Sec. 5.** Notice of the lien created by section 4 of
6 this act may be recorded as to real property and fixtures with the
7 county auditor in any county in which the taxpayer owns real property.

8 NEW SECTION. **Sec. 6.** Notice of the lien created by section 4 of
9 this act may be filed as to tangible or intangible personal property
10 with the department of licensing in Olympia. All such filed liens
11 shall be indexed by the department of licensing in the same manner of
12 indexing as financing statements pursuant to RCW 62A.9-402(4) and such
13 other tax lien recordings, including but not limited to liens claimed
14 by the United States under 26 U.S.C. Sec. 6321 et seq.

15 NEW SECTION. **Sec. 7.** The lien created in section 4 of this act
16 shall remain in full force and effect until satisfied, until released
17 as uncollectible or legally unenforceable, or until twenty years after
18 the date on which the lien was recorded or filed if applicable,
19 whichever occurs first.

20 NEW SECTION. **Sec. 8.** The pendency of any tax appeal shall not
21 affect the perfection or priority of the lien. The lien may be
22 removed, pending appeal, upon the posting of suitable bond or other
23 security acceptable to the taxing agency. The amount of the bond shall
24 include the amount of the lien as of the date of posting of the bond,
25 and interest provided for by statute for the expected duration of the
26 appeal. The bond shall be provided by a surety acceptable to the
27 taxing agency. Any issue as to the bond shall be decided by motion to
28 the person or entity having jurisdiction to decide the appeal.

29 NEW SECTION. **Sec. 9.** Notice of the lien created by section 4 of
30 this act may be filed with the clerk of the superior court in any
31 county in the state. The clerk shall index the lien as if it were a
32 judgment obtained in the superior court by the taxing agency against
33 the taxpayer. Filing the lien, or failure to file the lien, as a
34 judgment lien, shall not impair the prior perfected lien of the state

1 or alter the rights or remedies otherwise provided for. This provision
2 for filing the lien as a judgment is intended to facilitate recording
3 the tax claim as a foreign judgment in another state or country.
4 Nothing contained in this section shall be construed to permit the
5 taxing agency to foreclose or otherwise realize upon a lien filed under
6 this section as a judgment lien unless and until the liability of the
7 taxpayer and the validity and priority of the lien have been determined
8 in accordance with applicable law.

9 NEW SECTION. **Sec. 10.** A lien recorded as provided in section 9 of
10 this act shall be fully perfected against any homestead property of an
11 individual taxpayer when recorded with the county auditor. No further
12 filing of such lien under county judgment dockets shall be required,
13 nor shall any further legal action be required of the taxing agency in
14 order to perfect a lien against homestead property.

15 NEW SECTION. **Sec. 11.** Any taxing agency recording or filing a
16 notice of lien pursuant to this chapter shall use a document conforming
17 in substantial part to the following format:

18 FOR USE BY RECORDING OFFICE
19 á~~~~~¿
20 † †
21 † †
22 † †
23 † †
24 † †
25 † †
26 † †
27 † †
28 † †
29 ~~~~~Z

30 **WASHINGTON STATE UNIFORM NOTICE OF TAX LIEN**

31 | Department of Revenue
32 | Department of Labor and Industries
33 | Department of Employment Security
34 | OTHER:
35 District Office: UBI:
36 Acct. No.
37 As provided for under RCW et seq. NOTICE IS HEREBY GIVEN
38 that taxes, including interest and penalties, have been assessed

1 against the following named taxpayer. The taxpayer has failed to pay
 2 taxes after demand dated which was served on the
 3 taxpayer on Regardless of any subsequent appeal,
 4 absent a posting of bond, **THE FAILURE TO PAY TAXES TIMELY HAS CREATED**
 5 **A LIEN IN FAVOR OF THE STATE OF WASHINGTON AGAINST ANY AND ALL REAL**
 6 **PROPERTY LOCATED IN THE COUNTY IN WHICH THIS NOTICE IS FILED, AND ALL**
 7 **PERSONAL PROPERTY LOCATED IN THE STATE OF WASHINGTON BELONGING TO THIS**
 8 **TAXPAYER.**

9 NAME OF TAXPAYER:
 10 BUSINESS ADDRESS:
 11
 12

13 | If this section is marked and completed, the taxing agency is
 14 asserting that the individual or entity named below holds property
 15 of the taxpayer that is subject to this lien.

16 (THE RECORDING OFFICE SHALL INDEX THIS LIEN IN THE NAMES OF BOTH THE
 17 TAXPAYER AND THE ENTITY OR INDIVIDUAL(S) SET FORTH BELOW.)

18 NAME OF ENTITY/INDIVIDUAL:
 19 BUSINESS ADDRESS:
 20
 21

22	TAX	ú	TAX	BEGAN	ENDED	ASSESSMENT	AMOUNT	INTEREST
23			PERIOD			DATE	DUE	
24								
25								
26								
27								
28								
29								

30 TOTAL DUE: \$

- 31 BASIS FOR TAX:
- 32 | TAXPAYER REPORT
 - 33 | ESTIMATED TAX
 - 34 | JEOPARDY ASSESSMENT

35 I hereby certify that I have the authority to prepare and record and
 36 file this notice of lien against the above-referenced account and that

1 information set forth herein is accurate to the best of my knowledge,
2 based on records maintained by the agency of the State of Washington
3 specified above.

4 Dated:
5 Signature:
6 Agent Name:
7 Address:
8
9 Telephone Number:

10 NEW SECTION. **Sec. 12.** The lien created by section 4 of this act
11 may be foreclosed either judicially or nonjudicially under applicable
12 state statute, at the sole discretion of the taxing agency. In
13 instances of non-judicial foreclosure under chapter 61.24 RCW, the
14 taxing agency may designate as trustee any employee of the state of
15 Washington, so long as the foreclosure process otherwise complies with
16 chapter 61.24 RCW.

17 NEW SECTION. **Sec. 13.** The taxing agency may distrain, seize, and
18 sell any personal property of the taxpayer without specific court order
19 or further administrative hearing after the lien arises using any
20 designated agent of the agency. A department in its discretion may
21 also issue an order under its official seal designating the sheriff of
22 the county in which property is located as its agent to levy upon and
23 sell such property as may be necessary to satisfy payment of
24 outstanding tax liability, costs of sale, and any other costs of
25 collection including attorneys' fees.

26 NEW SECTION. **Sec. 14.** (1) Upon seizing personal property, the
27 designated agent shall:

28 (a) Prepare a notice providing an inventory of the property seized
29 and a statement of the time and place of the sale of the property;

30 (b) Post in at least two public places in the county in which the
31 seizure has been made a notice specifying the property to be sold and
32 the time and place of sale; and

33 (c) Publish the notice twice in a newspaper of general circulation
34 within the county, between twenty-five and twenty-two days before sale
35 and between eleven and eight days before sale;

1 (d) Upon obtaining a certificate of UCC filing pursuant to RCW
2 62A.9-407, send such notice to any other secured party claiming an
3 interest that is junior or subordinate to the lien of the state. In
4 the notice, it shall be prominently stated that the disposition by sale
5 shall transfer all the debtor/taxpayer's rights, discharge all such
6 remaining junior or subordinate lien claims, and cause purchaser to
7 take free of all such rights and interests.

8 (2) The time of the sale shall be as follows:

9 (a) If nonperishable goods are involved, no sale shall be set
10 earlier than twenty-eight days after posting.

11 (b) If the goods involved are perishable, of a type that are
12 customarily sold on a recognized market, or threaten to decline
13 speedily in value, the goods may be sold as early as five days after
14 the later of posting or publication; but in any event there must be at
15 least one publication of notice of sale, at least five days before
16 sale.

17 (3) Upon a showing of good cause the superior court of the county
18 in which the sale is to be conducted may authorize a sale waiving or
19 modifying any or all of the time, notice, or publication requirements
20 of this section.

21 NEW SECTION. **Sec. 15.** (1) The sale of personal property may be
22 continued from time to time without further notice or publication, but
23 the sale must be held within sixty days of the date originally set.

24 (2) The agent may sell by parcel, lot, or unit at public auction
25 and may set a minimum bid price to include costs of the sale and
26 storage of the property.

27 (3) If not otherwise prohibited by applicable statute, the agent
28 may cause the property to be included, in whole or in part, in a
29 commercial auction, subject to the procedures set forth in this
30 chapter, if the taxing agency has reason to believe the highest and
31 best price can be obtained by this process in lieu of public auction by
32 the agency itself.

33 (4) If no bid is received, or if no bid is received meeting a
34 minimum price that was set, the taxing agency shall be deemed to be the
35 successful bidder at the minimum price, or at the amount of the costs
36 of storing and selling the property if no minimum price was set. The
37 tax lien shall be reduced by the amount received from the sale or the
38 amount deemed to constitute the taxing agency's successful bid.

1 (5) Successful bidders shall be entitled to a bill of sale, or
2 deed without warranty, stating that the sale is without warranty as to
3 status of title or condition of property, and that transfer is only of
4 such right, title, or interest as the taxing agency may have in the
5 property.

6 NEW SECTION. **Sec. 16.** Any proceeds of the personal property sale
7 shall be used, first, to pay the costs of the sale; second, to satisfy
8 the lien of the taxing agency, including all accrued penalties,
9 interest, attorneys' fees, and costs. Any surplus remaining thereafter
10 shall be returned to the taxpayer, unless a party holding a junior or
11 subordinate security interest in the collateral sends written
12 notification of demand to the taxing agency for payment of remaining
13 proceeds, before distribution is completed. Upon receipt of such
14 demand, the state shall deposit the remaining funds into the registry
15 of the court by interpleader and thereafter be exonerated from any
16 further liability in relation thereto. The state may deduct from the
17 interpleader deposit its legal costs and fees incurred in preparing the
18 interpleader action.

19 Written notification shall be given by the court to all junior
20 lien holders of record on the date of sale using the following
21 procedure:

22 (1) No later than five days after the funds are deposited, the
23 clerk of the court shall notify all claimants of the surplus sales
24 proceeds, identifying the taxpayer, tax account, reasonably identifying
25 the personal property previously sold by the taxing agency.

26 (2) The notification shall set forth a bar date, for filing demand
27 for payment, which shall be no later than forty-five days after deposit
28 of funds with the court.

29 (3) Prior to the deadline, claimants must file pleadings with the
30 court and serve upon other claimants of record, asserting their right,
31 title, and priority in the surplus sales proceeds.

32 (4) The court shall determine the right, title, and interest of
33 claimants in the surplus proceeds. All court costs, including the
34 filing fee, shall be paid as the first priority.

35 NEW SECTION. **Sec. 17.** The taxing agency may seek the appointment
36 of a receiver pursuant to Title 7 RCW, to operate a business or retain
37 possession and control of property for an initial term of up to six

1 months, renewable thereafter. Property may be sold by the receiver
2 free and clear of liens, with rights attaching to the proceeds in the
3 same nature, rank, and priority as the liens had on the property.

4 (1) The taxpayer shall be liable for all federal and state taxes
5 on any gain realized by the sale of such property.

6 (2) It shall not be a defense or bar to the proposed sale of
7 property that the liens attaching to the property exceed the property's
8 value.

9 NEW SECTION. **Sec. 18.** When a lien arises under this chapter, the
10 taxing agency shall be entitled to all reasonable attorneys' fees and
11 costs related to collection of the amounts due.

12 Such fees and costs shall attach with the lien in the same
13 priority as the lien and shall accrue in connection with nonjudicial
14 collection efforts and collection efforts in all state or federal court
15 proceedings, including appeals.

16 NEW SECTION. **Sec. 19.** If the agent responsible for collection
17 has reason to believe that cause exists that the collection of any
18 taxes accrued will be jeopardized by delaying collection, the taxing
19 agency may make an immediate demand and may proceed to enforce
20 collection immediately under the provisions of this chapter, but
21 interest and penalties will not begin to accrue upon any taxes until
22 the date when such taxes would normally have become delinquent. There
23 shall be no sale of property seized until the date when such taxes
24 would normally have become delinquent and until the resolution of any
25 appeal from the jeopardy assessment. Cause includes, but is not
26 limited to the following events:

27 (1) The taxpayer has transferred assets to another entity or
28 individual outside the ordinary course of business;

29 (2) The taxpayer has manifested an intent to transfer assets
30 outside the state of Washington outside the ordinary course of
31 business;

32 (3) A tax payment has been returned "insufficient funds" or
33 "account closed";

34 (4) The taxpayer has transferred property with intent to hinder,
35 delay, or defraud present or future creditors;

36 (5) The taxpayer has absconded or absented itself from the state
37 with intent to hinder, delay, or defraud creditors;

1 (6) The taxpayer has manifested an intent to discontinue business;

2 (7) The taxpayer has failed, refused, or neglected to timely file
3 reports as required by any state, local, federal, or other governmental
4 unit under applicable law;

5 (8) The taxpayer has been charged with any of the following
6 offenses:

7 (a) Failure to report or pay taxes;

8 (b) Fraud;

9 (c) Theft;

10 (d) Consumer fraud; or

11 (e) Securities fraud;

12 (9) The taxpayer has made an assignment for the benefit of
13 creditors;

14 (10) The taxpayer has lost control of the business entity to a
15 court-appointed receiver; or

16 (11) The taxpayer has been served with pleadings to revoke its
17 state certificate of registration or has been served with pleadings to
18 revoke any other state-granted certificate or license.

19 NEW SECTION. **Sec. 20.** When:

20 (1) A tax lien remains unsatisfied;

21 (2) There is probable cause to believe that property or business
22 records of the taxpayer have been removed or secreted from their
23 premises or are in the possession of a third party; or

24 (3) The taxpayer has prevented access to the business premises,
25 any judge of the superior or district court in the county in which the
26 property is located, may, upon request of the agent of a taxing agency,
27 issue a warrant authorizing the sheriff or officers of the department
28 to search for and seize the property described in the request for
29 warrant. Application for, issuance, and execution and return of this
30 warrant shall be made in accordance with criminal rules of the superior
31 or district court from which the warrant issues.

32 NEW SECTION. **Sec. 21.** The provisions of this chapter regarding
33 the perfection, priority, and collection of state tax liens, and the
34 recovery of the costs of collection, apply to every state tax lien
35 existing on the effective date of this act including liens arising from
36 the filing of warrants and claims of liens, and liens arising from
37 other procedures authorized by statute.

1 NEW SECTION. **Sec. 22.** Statutory rights of administrative
2 garnishment, offset, recoupment, notices to withhold and deliver, and
3 other collection mechanisms are preserved with the adoption of this
4 chapter, along with other rights afforded a creditor under state law
5 for supplemental proceedings.

6 NEW SECTION. **Sec. 23.** A new section is added to chapter 61.24
7 RCW to read as follows:

8 When the state of Washington holds a lien, claim of lien, warrant,
9 prejudgment attachment, encumbrance, or judgment of record at the time
10 a notice of trustee sale issues from the trustee of record, the trustee
11 must concurrently send to the state of Washington the following
12 information:

- 13 (1) Notice of trustee's sale;
- 14 (2) Notice of foreclosure;
- 15 (3) Title report; and
- 16 (4) Such other information as the internal revenue service then
17 requires under applicable statute or regulation.

18 The information shall be served upon the state at an address and
19 in a manner designated by rules set forth in the Washington
20 Administrative Code.

21 NEW SECTION. **Sec. 24.** A new section is added to chapter 61.24
22 RCW to read as follows:

23 The trustee shall obtain a title report update thirty days prior
24 to sale. Should a state of Washington lien, claim of lien, warrant,
25 prejudgment attachment, encumbrance, or judgment then appear of record
26 for the first time, the trustee must concurrently send to the state of
27 Washington the documents and information set forth in section 23 of
28 this act within the same deadlines then established by the internal
29 revenue service under applicable statute or rule.

30 NEW SECTION. **Sec. 25.** The provisions of this chapter insofar as
31 they are substantially the same as statutory provisions repealed by
32 this act, and relate to the same subject matter, shall be construed as
33 restatements and continuations of the law, and not as new enactments.

34 **Sec. 26.** RCW 50.24.060 and 1983 1st ex.s. c 23 s 15 are each
35 amended to read as follows:

1 In the event of any distribution of an employer's assets pursuant
2 to an order of any court, including any receivership, probate, legal
3 dissolution, or similar proceeding, or in case of any assignment for
4 the benefit of creditors, composition, or similar proceeding,
5 contributions, interest, or penalties then or thereafter due shall be
6 a lien upon all the assets of such employer. Said lien will be prior
7 to all other liens or claims except prior tax liens, other liens
8 provided by this title, and claims for remuneration for services of not
9 more than two hundred and fifty dollars to each claimant earned within
10 six months of the commencement of the proceeding. The mere existence
11 of a condition of insolvency or the institution of any judicial
12 proceeding for legal dissolution or of any proceeding for distribution
13 of assets shall cause such a lien to attach without action on behalf of
14 the commissioner or the state. (~~In the event of an employer's
15 adjudication in bankruptcy, judicially confirmed extension proposal, or
16 composition, under the federal bankruptcy act of 1898, as amended,
17 contributions, interest, or penalties then or thereafter due shall be
18 entitled to such priority as provided in that act, as amended.~~)

19 **Sec. 27.** RCW 51.16.155 and 1985 c 315 s 3 are each amended to
20 read as follows:

21 In every case where an employer insured with the state fails or
22 refuses to file any report of payroll required by the department and
23 fails or refuses to pay the premiums due on such unreported payroll,
24 the department shall have authority to estimate such payroll and the
25 premiums due thereon and collect premiums on the basis of such
26 estimate.

27 If the report required and the premiums due thereon are not made
28 within ten days from the mailing of such demand by the department,
29 which shall include the amount of premiums estimated by the department,
30 the employer shall be in default as provided by this title and the
31 department may have and recover judgment(~~(, warrant,)~~) or file liens
32 for such estimated premium or the actual premium, whichever is greater.

33 **Sec. 28.** RCW 51.48.140 and 1989 c 175 s 121 are each amended to
34 read as follows:

35 If a notice of appeal is not served on the director and the board
36 of industrial insurance appeals pursuant to RCW 51.48.131 within thirty
37 days from the date of service of the notice of assessment, or if a

1 final decision and order of the board of industrial insurance appeals
2 in favor of the department is not appealed to superior court in the
3 manner specified in RCW 34.05.510 through 34.05.598, or if a final
4 decision of any court in favor of the department is not appealed within
5 the time allowed by law, then the amount of the unappealed assessment,
6 or such amount of the assessment as is found due by the final decision
7 and order of the board of industrial insurance appeals or final
8 decision of the court shall be deemed final (~~and the director or the~~
9 ~~director's designee may file with the clerk of any county within the~~
10 ~~state a warrant in the amount of the notice of assessment. The clerk~~
11 ~~of the county wherein the warrant is filed shall immediately designate~~
12 ~~a superior court cause number for such warrant, and the clerk shall~~
13 ~~cause to be entered in the judgment docket under the superior court~~
14 ~~cause number assigned to the warrant, the name of such employer~~
15 ~~mentioned in the warrant, the amount of the taxes and penalties due~~
16 ~~thereon, and the date when such warrant was filed. The aggregate~~
17 ~~amount of such warrant as docketed shall become a lien upon the title~~
18 ~~to, and interest in all real and personal property of the employer~~
19 ~~against whom the warrant is issued, the same as a judgment in a civil~~
20 ~~case duly docketed in the office of such clerk. The sheriff shall~~
21 ~~thereupon proceed upon the same in all respects and with like effect as~~
22 ~~prescribed by law with respect to execution or other process issued~~
23 ~~against rights or property upon judgment in the superior court. Such~~
24 ~~warrant so docketed shall be sufficient to support the issuance of~~
25 ~~writs of garnishment in favor of the state in a manner provided by law~~
26 ~~in case of judgment, wholly or partially unsatisfied. The clerk of the~~
27 ~~court shall be entitled to a filing fee of five dollars, which shall be~~
28 ~~added to the amount of the warrant. A copy of such warrant shall be~~
29 ~~mailed to the employer within three days of filing with the clerk)).~~

30 **Sec. 29.** RCW 51.48.160 and 1986 c 9 s 13 are each amended to read
31 as follows:

32 If any ((warrant)) lien issued under this title is not paid within
33 thirty days after it has been filed (~~with the clerk of the superior~~
34 ~~court)), or if any employer is delinquent, for three consecutive~~
35 reporting periods, in the transmission to the department of taxes due,
36 the department may, by order issued under its official seal, revoke the
37 certificate of coverage of the employer against whom the ((warrant))
38 lien was issued; and if the order is entered, a copy thereof shall be

1 posted in a conspicuous place at the main entrance to the employer's
2 place of business and shall remain posted until such time as the
3 ((warrant)) lien has been paid. Any certificate so revoked shall not
4 be reinstated, nor shall a new certificate of coverage be issued to the
5 employer, until the amount due on the ((warrant)) lien has been paid,
6 or provisions for payment satisfactory to the department have been
7 entered, and until the taxpayer has deposited with the department such
8 security for payment of any taxes, increases, and penalties, due or
9 which may become due in an amount and under such terms and conditions
10 as the department may require, but the amount of the security shall not
11 be greater than one-half the estimated average annual taxes of the
12 employer.

13 **Sec. 30.** RCW 51.48.210 and 1987 c 111 s 8 are each amended to
14 read as follows:

15 If payment of any tax due is not received by the department by the
16 due date, there shall be assessed a penalty of five percent of the
17 amount of the tax for the first month or part thereof of delinquency;
18 there shall be assessed a total penalty of ten percent of the amount of
19 the tax for the second month or part thereof of delinquency; and there
20 shall be assessed a total penalty of twenty percent of the amount of
21 the tax for the third month or part thereof of delinquency. No penalty
22 so added may be less than ten dollars. If a ((warrant)) lien is issued
23 by the department for the collection of taxes, increases, and
24 penalties, there shall be added thereto a penalty of five percent of
25 the amount of the tax, but not less than five dollars nor greater than
26 one hundred dollars. In addition, delinquent taxes shall bear interest
27 at the rate of one percent of the delinquent amount per month or
28 fraction thereof from and after the due date until payment, increases,
29 and penalties are received by the department.

30 **Sec. 31.** RCW 51.48.230 and 1986 c 9 s 22 are each amended to read
31 as follows:

32 In the discretion of the department, an order of execution of like
33 terms, force, and effect may be issued and directed to any agent of the
34 department authorized to collect taxes, and in the execution thereof
35 such agent shall have all the powers conferred by law upon sheriffs,
36 but shall not be entitled to any fee or compensation in excess of the

1 actual expenses paid in the performance of such duty, which shall be
2 added to the amount of the ((warrant)) lien.

3 **Sec. 32.** RCW 82.32.090 and 1992 c 206 s 3 are each amended to
4 read as follows:

5 (1) If payment of any tax due on a return to be filed by a
6 taxpayer is not received by the department of revenue by the due date,
7 there shall be assessed a penalty of five percent of the amount of the
8 tax; and if the tax is not received within thirty days after the due
9 date, there shall be assessed a total penalty of ten percent of the
10 amount of the tax; and if the tax is not received within sixty days
11 after the due date, there shall be assessed a total penalty of twenty
12 percent of the amount of the tax. No penalty so added shall be less
13 than five dollars.

14 (2) If payment of any tax assessed by the department of revenue is
15 not received by the department by the due date specified in the notice,
16 or any extension thereof, the department shall add a penalty of ten
17 percent of the amount of the additional tax found due. No penalty so
18 added shall be less than five dollars.

19 (3) If a ((warrant)) notice of lien be issued by the department of
20 revenue for the collection of taxes, ((increases)) interest, and
21 penalties, there shall be added thereto a penalty of five percent of
22 the amount of the tax, but not less than ten dollars, together with
23 interest on the unpaid sums at the rate of one percent per month in
24 addition to the interest that accrued prior to the date of issuance of
25 the notice of lien.

26 (4) If the department finds that all or any part of a deficiency
27 resulted from the disregard of specific written instructions as to
28 reporting or tax liabilities, the department shall add a penalty of ten
29 percent of the amount of the additional tax found due because of the
30 failure to follow the instructions. A taxpayer disregards specific
31 written instructions when the department of revenue has informed the
32 taxpayer in writing of the taxpayer's tax obligations and the taxpayer
33 fails to act in accordance with those instructions unless the
34 department has not issued final instructions because the matter is
35 under appeal pursuant to this chapter or departmental regulations. The
36 department shall not assess the penalty under this section upon any
37 taxpayer who has made a good faith effort to comply with the specific
38 written instructions provided by the department to that taxpayer.

1 Specific written instructions may be given as a part of a tax
2 assessment, audit, determination, or closing agreement, provided that
3 such specific written instructions shall apply only to the taxpayer
4 addressed or referenced on such documents. Any specific written
5 instructions by the department of revenue shall be clearly identified
6 as such and shall inform the taxpayer that failure to follow the
7 instructions may subject the taxpayer to the penalties imposed by this
8 subsection.

9 (5) If the department finds that all or any part of the deficiency
10 resulted from an intent to evade the tax payable hereunder, a further
11 penalty of fifty percent of the additional tax found to be due shall be
12 added.

13 (6) The aggregate of penalties imposed under this section for
14 failure to pay a tax due on a return by the due date, late payment of
15 any tax, increase, or penalty, or issuance of a ((warrant)) lien shall
16 not exceed thirty-five percent of the tax due, or twenty dollars,
17 whichever is greater.

18 (7) The department of revenue may not impose both the evasion
19 penalty and the penalty for disregarding specific written instructions
20 on the same tax found to be due.

21 **Sec. 33.** RCW 82.32.215 and 1983 1st ex.s. c 55 s 9 are each
22 amended to read as follows:

23 If any ((warrant)) lien issued under this chapter is not paid
24 within thirty days after it has been filed ((with the clerk of the
25 superior court)), or if any taxpayer is delinquent, for three
26 consecutive reporting periods, in the transmission to the department of
27 revenue of retail sales tax collected by ((him)) the taxpayer, the
28 department ((of revenue)) may, by order issued under its official seal,
29 revoke the certificate of registration of the taxpayer against whom the
30 warrant was issued, and, if the order is entered, a copy thereof shall
31 be posted in a conspicuous place at the main entrance to the taxpayer's
32 place of business and shall remain posted until such time as the
33 ((warrant has)) lien and all related taxes have been paid. Any
34 certificate so revoked shall not be reinstated, nor shall a new
35 certificate of registration be issued to the taxpayer, until the amount
36 due on the ((warrant has)) lien and all related taxes have been paid,
37 or provisions for payment satisfactory to the department of revenue
38 have been entered, and until the taxpayer has deposited with the

1 department of revenue such security for payment of any taxes,
2 increases, and penalties, due or which may become due in an amount and
3 under such terms and conditions as the department of revenue may
4 require, but the amount of the security shall not be greater than one-
5 half the estimated average annual liability of the taxpayer.

6 **Sec. 34.** RCW 82.32.235 and 1987 c 208 s 1 are each amended to
7 read as follows:

8 In addition to the remedies provided in this chapter the
9 department is hereby authorized to issue to any person, or to any
10 political subdivision or department of the state, a notice and order to
11 withhold and deliver property of any kind whatsoever when there is
12 reason to believe that there is in the possession of such person,
13 political subdivision or department, property which is or shall become
14 due, owing, or belonging to any taxpayer against whom a ((warrant))
15 lien has been filed.

16 The notice and order to withhold and deliver shall be served by
17 the sheriff of the county wherein the service is made, or by his or her
18 deputy, or by any duly authorized representative of the department,
19 provided that service by such persons may also be made by certified
20 mail, with return receipt requested, upon those persons, or political
21 subdivision or department, to whom the notice ((and order to)) of
22 withhold and deliver is directed. Any person, or any political
23 subdivision or department upon whom service has been made is hereby
24 required to answer the notice within twenty days exclusive of the day
25 of service, under oath and in writing, and shall make true answers to
26 the matters inquired of in the notice.

27 In the event there is in the possession of any such person or
28 political subdivision or department, any property which may be subject
29 to the claim of the department, such property shall be delivered
30 forthwith to the department of revenue or its duly authorized
31 representative upon demand to be held in trust by the department for
32 application on the indebtedness involved or for return, without
33 interest, in accordance with final determination of liability or
34 nonliability, or in the alternative, there shall be furnished a good
35 and sufficient bond ((satisfactory)) to the department conditioned upon
36 final determination of liability.

37 Should any person or political subdivision fail to make answer to
38 an order to withhold and deliver within the time prescribed herein, it

1 shall be lawful for the court, after the time to answer (~~such order~~)
2 has expired, to render judgment by default against such person or
3 political subdivision for the full amount claimed by the department in
4 the notice to withhold and deliver, together with costs.

5 **Sec. 35.** RCW 82.32.330 and 1991 c 330 s 1 are each amended to
6 read as follows:

7 (1) For purposes of this section:

8 (a) "Disclose" means to make known to any person in any manner
9 whatever a return or tax information;

10 (b) "Return" means a tax or information return or claim for refund
11 required by, or provided for or permitted under, the laws of this state
12 which is filed with the department of revenue by, on behalf of, or with
13 respect to a person, and any amendment or supplement thereto, including
14 supporting schedules, attachments, or lists that are supplemental to,
15 or part of, the return so filed;

16 (c) "Tax information" means (i) a taxpayer's identity, (ii) the
17 nature, source, or amount of the taxpayer's income, payments, receipts,
18 deductions, exemptions, credits, assets, liabilities, net worth, tax
19 liability deficiencies, overassessments, or tax payments, whether taken
20 from the taxpayer's books and records or any other source, (iii)
21 whether the taxpayer's return was, is being, or will be examined or
22 subject to other investigation or processing, (iv) a part of a written
23 determination that is not designated as a precedent and disclosed
24 pursuant to RCW 82.32.410, or a background file document relating to a
25 written determination, and (v) other data received by, recorded by,
26 prepared by, furnished to, or collected by the department of revenue
27 with respect to the determination of the existence, or possible
28 existence, of liability, or the amount thereof, of a person under the
29 laws of this state for a tax, penalty, interest, fine, forfeiture, or
30 other imposition, or offense: PROVIDED, That data, material, or
31 documents that do not disclose information related to a specific or
32 identifiable taxpayer do not constitute tax information under this
33 section. Except as provided by RCW 82.32.410, nothing in this chapter
34 shall require any person possessing data, material, or documents made
35 confidential and privileged by this section to delete information from
36 such data, material, or documents so as to permit its disclosure;

1 (d) "State agency" means every Washington state office,
2 department, division, bureau, board, commission, or other state agency;
3 and

4 (e) "Taxpayer identity" means the taxpayer's name, address,
5 telephone number, registration number, or any combination thereof, or
6 any other information disclosing the identity of the taxpayer.

7 (2) Returns and tax information shall be confidential and
8 privileged, and except as authorized by this section, neither the
9 department of revenue nor any officer, employee, agent, or
10 representative thereof nor any other person may disclose any return or
11 tax information.

12 (3) The foregoing, however, shall not prohibit the department of
13 revenue or an officer, employee, agent, or representative thereof from:

14 (a) Disclosing such return or tax information in a civil or
15 criminal judicial proceeding or an administrative proceeding:

16 (i) In respect of any tax imposed under the laws of this state if
17 the taxpayer or its officer or other person liable under Title 82 RCW
18 is a party in the proceeding; or

19 (ii) In which the taxpayer about whom such return or tax
20 information is sought and another state agency are adverse parties in
21 the proceeding;

22 (b) Disclosing, subject to such requirements and conditions as the
23 director shall prescribe by rules adopted pursuant to chapter 34.05
24 RCW, such return or tax information regarding a taxpayer to such
25 taxpayer or to such person or persons as that taxpayer may designate in
26 a request for, or consent to, such disclosure, or to any other person,
27 at the taxpayer's request, to the extent necessary to comply with a
28 request for information or assistance made by the taxpayer to such
29 other person: PROVIDED, That tax information not received from the
30 taxpayer shall not be so disclosed if the director determines that such
31 disclosure would compromise any investigation or litigation by any
32 federal, state, or local government agency in connection with the civil
33 or criminal liability of the taxpayer or another person, or that such
34 disclosure is contrary to any agreement entered into by the department
35 that provides for the reciprocal exchange of information with other
36 government agencies which agreement requires confidentiality with
37 respect to such information unless such information is required to be
38 disclosed to the taxpayer by the order of any court;

1 (c) Disclosing the name of a taxpayer with a deficiency greater
2 than five thousand dollars and against whom a (~~warrant under RCW~~
3 ~~82.32.210 has been~~) lien has either issued or (~~failed [filed] and~~)
4 where tax debt remains outstanding for a period of at least ten working
5 days. The department shall not be required to disclose any information
6 under this subsection if a taxpayer: (i) Has been issued a tax
7 assessment; (ii) has been issued a (~~warrant~~) lien that has not been
8 filed; and (iii) has entered a deferred payment arrangement with the
9 department of revenue and is making payments upon such deficiency that
10 will fully satisfy the indebtedness within twelve months;

11 (d) Disclosing the name of a taxpayer with a deficiency greater
12 than five thousand dollars (~~and~~) against whom a (~~warrant under RCW~~
13 ~~82.32.210~~) lien has been filed (~~with a court of record~~) and remains
14 outstanding;

15 (e) Publishing statistics so classified as to prevent the
16 identification of particular returns or reports or items thereof;

17 (f) Disclosing such return or tax information, for official
18 purposes only, to the governor or attorney general, or to any state
19 agency, or to any committee or subcommittee of the legislature dealing
20 with matters of taxation, revenue, trade, commerce, the control of
21 industry or the professions;

22 (g) Permitting the department of revenue's records to be audited
23 and examined by the proper state officer, his or her agents and
24 employees;

25 (h) Disclosing any such return or tax information to the proper
26 officer of the internal revenue service of the United States, the
27 Canadian government or provincial governments of Canada, or to the
28 proper officer of the tax department of any state or city or town or
29 county, for official purposes, but only if the statutes of the United
30 States, Canada or its provincial governments, or of such other state or
31 city or town or county, as the case may be, grants substantially
32 similar privileges to the proper officers of this state; or

33 (i) Disclosing any such return or tax information to the
34 Department of Justice, the Bureau of Alcohol, Tobacco and Firearms of
35 the Department of the Treasury, the Department of Defense, the United
36 States customs service, the coast guard of the United States, and the
37 United States department of transportation, or any authorized
38 representative thereof, for official purposes;

1 (j) Publishing or otherwise disclosing the text of a written
2 determination designated by the director as a precedent pursuant to RCW
3 82.32.410; or

4 (k) Disclosing, in a manner that is not associated with other tax
5 information, the taxpayer name, business address, mailing address,
6 revenue tax registration numbers, standard industrial classification
7 code of a taxpayer, and the dates of opening and closing of business.

8 (4) Any person acquiring knowledge of any return or tax
9 information in the course of his or her employment with the department
10 of revenue and any person acquiring knowledge of any return or tax
11 information as provided under subsection (3) (f), (g), (h), or (i) of
12 this section, who discloses any such return or tax information to
13 another person not entitled to knowledge of such return or tax
14 information under the provisions of this section, shall upon conviction
15 be punished by a fine not exceeding one thousand dollars and, if the
16 person guilty of such violation is an officer or employee of the state,
17 such person shall forfeit such office or employment and shall be
18 incapable of holding any public office or employment in this state for
19 a period of two years thereafter.

20 **Sec. 36.** RCW 82.32.340 and 1989 c 78 s 3 are each amended to read
21 as follows:

22 (1) Any tax or penalty which the department of revenue deems to be
23 uncollectible may be transferred from accounts receivable to a suspense
24 account and cease to be accounted an asset. Any item transferred shall
25 continue to be a debt due the state from the taxpayer and may at any
26 time within twelve years from the filing of a (~~warrant~~) lien covering
27 such amount with the clerk of the superior court be transferred back to
28 accounts receivable for the purpose of collection. The department of
29 revenue may charge off as finally uncollectible any tax or penalty
30 which it deems uncollectible at any time after twelve years from the
31 date that the last tax return for the delinquent taxpayer was or should
32 have been filed if the department of revenue is satisfied that there
33 are no cost-effective means of collecting the tax or penalty.

34 After any tax or penalty has been charged off as finally
35 uncollectible under the provisions of this section, the department of
36 revenue may destroy any or all files and records pertaining to the
37 liability of any taxpayer for such tax or penalty.

1 The department of revenue, subject to the approval of the state
2 records committee, may at the expiration of five years after the close
3 of any taxable year, destroy any or all files and records pertaining to
4 the tax liability of any taxpayer for such taxable year, who has fully
5 paid all taxes, penalties and interest for such taxable year, or any
6 preceding taxable year for which such taxes, penalties and interest
7 have been fully paid. In the event that such files and records are
8 reproduced on film pursuant to RCW 40.20.020 for use in accordance with
9 RCW 40.20.030, the original files and records may be destroyed
10 immediately after reproduction and such reproductions may be destroyed
11 at the expiration of the above five-year period, subject to the
12 approval of the state records committee.

13 (2) Notwithstanding subsection (1) of this section, the department
14 may charge off any tax within its jurisdiction to collect that is owed
15 by a taxpayer, including any penalty or interest thereon, if the
16 department ascertains that the cost of collecting that tax would be
17 greater than the total amount which is owed or likely in the near
18 future to be owed by, and collectible from, the taxpayer.

19 **Sec. 37.** RCW 84.64.080 and 1991 c 245 s 27 are each amended to
20 read as follows:

21 The court shall examine each application for judgment foreclosing
22 tax lien, and if defense (specifying in writing the particular cause of
23 objection) be offered by any person interested in any of the lands or
24 lots to the entry of judgment against the same, the court shall hear
25 and determine the matter in a summary manner, without other pleadings,
26 and shall pronounce judgment as the right of the case may be; or the
27 court may, in its discretion, continue such individual cases, wherein
28 defense is offered, to such time as may be necessary, in order to
29 secure substantial justice to the contestants therein; but in all other
30 cases the court shall proceed to determine the matter in a summary
31 manner as above specified. In all judicial proceedings of any kind for
32 the collection of taxes, and interest and costs thereon, all amendments
33 which by law can be made in any personal action pending in such court
34 shall be allowed, and no assessments of property or charge for any of
35 the taxes shall be considered illegal on account of any irregularity in
36 the tax list or assessment rolls or on account of the assessment rolls
37 or tax list not having been made, completed or returned within the time
38 required by law, or on account of the property having been charged or

1 listed in the assessment or tax lists without name, or in any other
2 name than that of the owner, and no error or informality in the
3 proceedings of any of the officers connected with the assessment,
4 levying or collection of the taxes, shall vitiate or in any manner
5 affect the tax or the assessment thereof, and any irregularities or
6 informality in the assessment rolls or tax lists or in any of the
7 proceedings connected with the assessment or levy of such taxes or any
8 omission or defective act of any officer or officers connected with the
9 assessment or levying of such taxes, may be, in the discretion of the
10 court, corrected, supplied and made to conform to the law by the court.
11 The court shall give judgment for such taxes, interest and costs as
12 shall appear to be due upon the several lots or tracts described in the
13 notice of application for judgment or complaint, and such judgment
14 shall be a several judgment against each tract or lot or part of a
15 tract or lot for each kind of tax included therein, including all
16 interest and costs, and the court shall order and direct the clerk to
17 make and enter an order for the sale of such real property against
18 which judgment is made, or vacate and set aside the certificate of
19 delinquency or make such other order or judgment as in the law or
20 equity may be just. The order shall be signed by the judge of the
21 superior court, shall be delivered to the county treasurer, and shall
22 be full and sufficient authority for him or her to proceed to sell the
23 property for the sum as set forth in the order and to take such further
24 steps in the matter as are provided by law. The county treasurer shall
25 immediately after receiving the order and judgment of the court proceed
26 to sell the property as provided in this chapter to the highest and
27 best bidder for cash. The acceptable minimum bid shall be the total
28 amount of taxes, interest, penalties, and costs. All sales shall be
29 made at a location in the county on a date and time (except Saturdays,
30 Sundays, or legal holidays) as the county treasurer may direct, and
31 shall continue from day to day (Saturdays, Sundays, and legal holidays
32 excepted) during the same hours until all lots or tracts are sold,
33 after first giving notice of the time, and place where such sale is to
34 take place for ten days successively by posting notice thereof in three
35 public places in the county, one of which shall be in the office of the
36 treasurer. The notice shall be substantially in the following form:

TAX JUDGMENT SALE

1
2 Public notice is hereby given that pursuant to real property tax
3 judgment of the superior court of the county of in the
4 state of Washington, and an order of sale duly issued by the court,
5 entered the day of,, in proceedings for
6 foreclosure of tax liens upon real property, as per provisions of law,
7 I shall on the day of,, at o'clock
8 a.m., at in the city of, and county of
9, state of Washington, sell the real property to the highest
10 and best bidder for cash, to satisfy the full amount of taxes, interest
11 and costs adjudged to be due.

12 In witness whereof, I have hereunto affixed my hand and seal this
13 day of,

14
15 Treasurer of
16 county.

17 No county officer or employee shall directly or indirectly be a
18 purchaser of such property at such sale.

19 If any buildings or improvements are upon an area encompassing
20 more than one tract or lot, the same must be advertised and sold as a
21 single unit.

22 If the highest amount bid for any such separate unit tract or lot
23 is in excess of the minimum bid due upon the whole property included in
24 the certificate of delinquency, the excess shall be refunded
25 (~~following payment of all water and sewer district liens~~), on
26 application therefor, to the record owner of the property. The record
27 owner of the property is the person who held title on the date of
28 issuance of the certificate of delinquency.

29 If the highest amount bid for any such separate unit tract or lot
30 is in excess of the minimum bid due upon the whole property included in
31 the certificate of delinquency, and there are competing claims for the
32 surplus funds, all surplus funds shall be deposited in the registry of
33 the court with written notification given by the court to all junior
34 lien holders of record on the date of sale using the following
35 procedure:

36 (1) No later than five days after the funds are deposited, the
37 clerk of the court shall notify all claimants of the surplus sales

1 proceeds, identifying the taxpayer and tax account and appending a
2 legal description of the property.

3 (2) The notification shall set forth a bar date for filing demand
4 for payment, which shall be no later than forty-five days after deposit
5 of funds with the court.

6 (3) Prior to the deadline, claimants must file pleadings with the
7 court and serve upon other claimants of record, asserting their right,
8 title, and priority in the surplus sales proceeds.

9 (4) The court shall determine the right, title, and interest of
10 claimants in the surplus proceeds. All court costs, including the
11 filing fee, shall be paid as the first priority.

12 (5) In the event that surplus proceeds remain after the
13 satisfaction of all liens and payment of all court costs, the clerk of
14 the court shall return the excess to the county treasurer.

15 In the event no claim for the excess is received by the county
16 treasurer within three years after the date of the sale he or she shall
17 at expiration of the three year period deposit such excess in the
18 current expense fund of the county. The county treasurer shall execute
19 to the purchaser of any piece or parcel of land a tax deed. The deed
20 so made by the county treasurer, under the official seal of his or her
21 office, shall be recorded in the same manner as other conveyances of
22 real property, and shall vest in the grantee, his or her heirs and
23 assigns the title to the property therein described, without further
24 acknowledgment or evidence of such conveyance, and shall be
25 substantially in the following form:

26 State of Washington

27 ss.

28 County of

29 This indenture, made this day of,,
30 between, as treasurer of county, state of
31 Washington, party of the first part, and, party of the
32 second part:

33 Witnesseth, that, whereas, at a public sale of real property held
34 on the day of,, pursuant to a real property
35 tax judgment entered in the superior court in the county of
36 on the day of,, in proceedings to foreclose
37 tax liens upon real property and an order of sale duly issued by the
38 court, duly purchased in compliance with the laws of the

1 state of Washington, the following described real property, to wit:
2 (Here place description of real property conveyed) and that the
3 has complied with the laws of the state of Washington
4 necessary to entitle (him, or her or them) to a deed for the real
5 property.

6 Now, therefore, know ye, that, I, county treasurer of
7 the county of, state of Washington, in consideration of the
8 premises and by virtue of the statutes of the state of Washington, in
9 such cases provided, do hereby grant and convey unto, his
10 or her heirs and assigns, forever, the real property hereinbefore
11 described.

12 Given under my hand and seal of office this day of
13, A.D.

14
15 County Treasurer.

16 **Sec. 38.** RCW 40.14.027 and 1994 c 193 s 2 are each amended to
17 read as follows:

18 State agencies shall collect a surcharge of twenty dollars from
19 the ((judgment)) debtor upon the satisfaction of a warrant filed in
20 superior court or a notice of lien filed with a county auditor, for
21 unpaid taxes or liabilities. The surcharge is imposed on the
22 ((judgment)) debtor in the form of a penalty in addition to the filing
23 fee provided in RCW 36.18.010 and 36.18.020(4). The surcharge revenue
24 shall be transmitted to the state treasurer for deposit in the archives
25 and records management account, or procedures for the collection and
26 transmittal of surcharge revenue to the archives and records management
27 account shall be established cooperatively between the filing agencies
28 and clerks of superior court and county auditors.

29 Surcharge revenue deposited in the archives and records management
30 account shall be expended by the secretary of state exclusively for the
31 payment of costs and expenses incurred in the provision of public
32 archives and records management services to local government agencies
33 by the division of archives and records management. The secretary of
34 state shall work with local government representatives to establish a
35 committee to advise the state archivist on the local government
36 archives and records management program. Surcharge revenue shall be
37 allocated exclusively to:

1 (1) Appraise, process, store, preserve, and provide public
2 research access to original records designated by the state archivist
3 as archival which are no longer required to be kept by the agencies
4 which originally made or filed them;

5 (2) Protect essential records, as provided by chapters 40.10 and
6 40.20 RCW. Permanent facsimiles of essential records shall be produced
7 and placed in security storage with the state archivist;

8 (3) Coordinate records retention and disposition management and
9 provide support for the following functions under RCW 40.14.070:

10 (a) Advise and assist individual agencies on public records
11 management requirements and practices; and

12 (b) Compile, maintain, and regularly update general records
13 retention schedules and destruction authorizations; and

14 (4) Develop and maintain standards for the application of
15 recording media and records storage technologies.

16 **Sec. 39.** RCW 49.52.040 and 1929 c 136 s 2 are each amended to
17 read as follows:

18 If any such employer shall default in any such payment to any
19 physician, surgeon, hospital, hospital association or any other parties
20 to whom any such payment is due, the sum so due may be collected by an
21 action at law in the name of the physician, surgeon, hospital, hospital
22 association or any other party to whom such payment is owing, or their
23 assigns and against such defaulting employer, and in addition to such
24 action, such claims shall have the same priority and lien rights as
25 granted to the state for claims due the accident and medical aid funds
26 (~~((by section 7682 of Remington's Compiled Statutes of Washington, 1922~~
27 ~~{RCW 51.16.150 through 51.16.170}, and acts amendatory thereto))~~ as
28 provided under RCW 51.16.150, 51.16.155, and 51.16.160 and chapter
29 60.-- RCW (sections 1 through 22 and 25 of this act), which priority
30 and lien rights shall be enforced in the same manner and under the same
31 conditions as provided in (~~(said section 7682 [RCW 51.16.150 through~~
32 ~~51.16.170])~~ RCW 51.16.150, 51.16.155, and 51.16.160 and chapter 60.--
33 RCW (sections 1 through 22 and 25 of this act)): PROVIDED, HOWEVER,
34 That the said claims for physicians, surgeons, hospitals and hospital
35 associations and others shall be secondary and inferior to any claims
36 of the state and to any claims for labor. Such right of action shall
37 be in addition to any other right of action or remedy.

1 **Sec. 40.** RCW 50.12.220 and 1987 c 111 s 2 are each amended to
2 read as follows:

3 (1) If an employer fails to file in a timely and complete manner
4 a report required by RCW 50.12.070 as now or hereafter amended or the
5 rules adopted pursuant thereto, the employer shall be subject to a
6 minimum penalty of ten dollars per violation.

7 (2) If contributions are not paid on the date on which they are
8 due and payable as prescribed by the commissioner, there shall be
9 assessed a penalty of five percent of the amount of the contributions
10 for the first month or part thereof of delinquency; there shall be
11 assessed a total penalty of ten percent of the amount of the
12 contributions for the second month or part thereof of delinquency; and
13 there shall be assessed a total penalty of twenty percent of the amount
14 of the contributions for the third month or part thereof of
15 delinquency. No penalty so added shall be less than ten dollars.
16 These penalties are in addition to the interest charges assessed under
17 (~~RCW 50.24.040~~) applicable statutes.

18 (3) Penalties shall not accrue on contributions from an estate in
19 the hands of a receiver, executor, administrator, trustee in
20 bankruptcy, common law assignee, or other liquidating officer
21 subsequent to the date when such receiver, executor, administrator,
22 trustee in bankruptcy, common law assignee, or other liquidating
23 officer qualifies as such, but contributions accruing with respect to
24 employment of persons by a receiver, executor, administrator, trustee
25 in bankruptcy, common law assignee, or other liquidating officer shall
26 become due and shall be subject to penalties in the same manner as
27 contributions due from other employers.

28 (4) Where adequate information has been furnished to the
29 department and the department has failed to act or has advised the
30 employer of no liability or inability to decide the issue, penalties
31 shall be waived by the commissioner. Penalties may also be waived for
32 good cause if the commissioner determines that the failure to timely
33 file reports or pay contributions was not due to the employer's fault.

34 (5) Any decision to assess a penalty as provided by this section
35 shall be made by the chief administrative officer of the tax branch or
36 his or her designee.

37 (6) Nothing in this section shall be construed to deny an employer
38 the right to appeal the assessment of any penalty. Such appeal shall
39 be made in the manner provided in RCW 50.32.030.

1 **Sec. 41.** RCW 50.44.060 and 1990 c 245 s 9 are each amended to
2 read as follows:

3 Benefits paid to employees of "nonprofit organizations" shall be
4 financed in accordance with the provisions of this section. For the
5 purpose of this section and RCW 50.44.070, the term "nonprofit
6 organization" is limited to those organizations described in RCW
7 50.44.010, and joint accounts composed exclusively of such
8 organizations.

9 (1) Any nonprofit organization which is, or becomes subject to
10 this title on or after January 1, 1972 shall pay contributions under
11 the provisions of RCW 50.24.010 and chapter 50.29 RCW, unless it
12 elects, in accordance with this subsection, to pay to the commissioner
13 for the unemployment compensation fund an amount equal to the full
14 amount of regular and additional benefits and one-half of the amount of
15 extended benefits paid to individuals for weeks of unemployment that
16 are based upon wages paid or payable during the effective period of
17 such election to the extent that such payments are attributable to
18 service in the employ of such nonprofit organization.

19 (a) Any nonprofit organization which becomes subject to this title
20 after January 1, 1972 may elect to become liable for payments in lieu
21 of contributions for a period of not less than twelve months beginning
22 with the date on which such subjectivity begins by filing a written
23 notice of its election with the commissioner not later than thirty days
24 immediately following the date of the determination of such
25 subjectivity.

26 (b) Any nonprofit organization which makes an election in
27 accordance with paragraph (a) of this subsection will continue to be
28 liable for payments in lieu of contributions until it files with the
29 commissioner a written notice terminating its election not later than
30 thirty days prior to the beginning of the taxable year for which such
31 termination shall first be effective.

32 (c) Any nonprofit organization which has been paying contributions
33 under this title for a period subsequent to January 1, 1972 may change
34 to a reimbursable basis by filing with the commissioner not later than
35 thirty days prior to the beginning of any taxable year a written notice
36 of election to become liable for payments in lieu of contributions.
37 Such election shall not be terminable by the organization for that and
38 the next year.

1 (d) The commissioner may for good cause extend the period within
2 which a notice of election, or a notice of termination, must be filed
3 and may permit an election to be retroactive but not any earlier than
4 with respect to benefits paid after December 31, 1969.

5 (e) The commissioner, in accordance with such regulations as the
6 commissioner may prescribe, shall notify each nonprofit organization of
7 any determination which the commissioner may make of its status as an
8 employer and of the effective date of any election which it makes and
9 of any termination of such election. Any nonprofit organization
10 subject to such determination and dissatisfied with such determination
11 may file a request for review and redetermination with the commissioner
12 within thirty days of the mailing of the determination to the
13 organization. Should such request for review and redetermination be
14 denied, the organization may, within ten days of the mailing of such
15 notice of denial, file with the appeal tribunal a petition for hearing
16 which shall be heard in the same manner as a petition for denial of
17 refund. The appellate procedure prescribed by this title for further
18 appeal shall apply to all denials of review and redetermination under
19 this paragraph.

20 (2) Payments in lieu of contributions shall be made in accordance
21 with the provisions of this section including either paragraph (a) or
22 (b) of this subsection.

23 (a) At the end of each calendar quarter, the commissioner shall
24 bill each nonprofit organization or group of such organizations which
25 has elected to make payments in lieu of contributions for an amount
26 equal to the full amount of regular and additional benefits plus one-
27 half of the amount of extended benefits paid during such quarter that
28 is attributable to service in the employ of such organization.

29 (b) (i) Each nonprofit organization that has elected payments in
30 lieu of contributions may request permission to make such payments as
31 provided in this paragraph. Such method of payment shall become
32 effective upon approval by the commissioner.

33 (ii) At the end of each calendar quarter, or at the end of such
34 other period as determined by the commissioner, the commissioner shall
35 bill each nonprofit organization for an amount representing one of the
36 following:

37 (A) The percentage of its total payroll for the immediately
38 preceding calendar year as the commissioner shall determine. Such
39 determination shall be based each year on the average benefit costs

1 attributable to service in the employ of nonprofit organizations during
2 the preceding calendar year.

3 (B) For any organization which did not pay wages throughout the
4 four calendar quarters of the preceding calendar year, such percentage
5 of its payroll during such year as the commissioner shall determine.

6 (iii) At the end of each taxable year, the commissioner may modify
7 the quarterly percentage of payroll thereafter payable by the nonprofit
8 organization in order to minimize excess or insufficient payments.

9 (iv) At the end of each taxable year, the commissioner shall
10 determine whether the total of payments for such year made by a
11 nonprofit organization is less than, or in excess of, the total amount
12 of regular and additional benefits plus one-half of the amount of
13 extended benefits paid to individuals during such taxable year based on
14 wages attributable to service in the employ of such organization. Each
15 nonprofit organization whose total payments for such year are less than
16 the amount so determined shall be liable for payment of the unpaid
17 balance to the fund in accordance with paragraph (c). If the total
18 payments exceed the amount so determined for the taxable year, all of
19 the excess payments will be retained in the fund as part of the
20 payments which may be required for the next taxable year, or a part of
21 the excess may, at the discretion of the commissioner, be refunded from
22 the fund or retained in the fund as part of the payments which may be
23 required for the next taxable year.

24 (c) Payment of any bill rendered under paragraph (a) or (b) shall
25 be made not later than thirty days after such bill was mailed to the
26 last known address of the nonprofit organization or was otherwise
27 delivered to it, and if not paid within such thirty days, the
28 reimbursement payments itemized in the bill shall be deemed to be
29 delinquent and the whole or part thereof remaining unpaid shall bear
30 interest and penalties from and after the end of such thirty days at
31 the rate and in the manner set forth in RCW 50.12.220 and ~~((50.24.040))~~
32 any other applicable statutes.

33 (d) Payments made by any nonprofit organization under the
34 provisions of this section shall not be deducted or deductible, in
35 whole or in part, from the remuneration of individuals in the employ of
36 the organization. Any deduction in violation of the provisions of this
37 paragraph shall be unlawful.

38 (3) Each employer that is liable for payments in lieu of
39 contributions shall pay to the commissioner for the fund the total

1 amount of regular and additional benefits plus the amount of one-half
2 of extended benefits paid that are attributable to service in the
3 employ of such employer. If benefits paid to an individual are based
4 on wages paid by more than one employer and one or more of such
5 employers are liable for payments in lieu of contributions, the amount
6 payable to the fund by each employer that is liable for such payments
7 shall be determined in accordance with the provisions of paragraphs (a)
8 and (b) of this subsection.

9 (a) If benefits paid to an individual are based on wages paid by
10 one or more employers that are liable for payments in lieu of
11 contributions and on wages paid by one or more employers who are liable
12 for contributions, the amount of benefits payable by each employer that
13 is liable for payments in lieu of contributions shall be an amount
14 which bears the same ratio to the total benefits paid to the individual
15 as the total base-period wages paid to the individual by such employer
16 bear to the total base-period wages paid to the individual by all of
17 his base-period employers.

18 (b) If benefits paid to an individual are based on wages paid by
19 two or more employers that are liable for payments in lieu of
20 contributions, the amount of benefits payable by each such employer
21 shall be an amount which bears the same ratio to the total benefits
22 paid to the individual as the total base-period wages paid to the
23 individual by such employer bear to the total base-period wages paid to
24 the individual by all of his base-period employers.

25 **Sec. 42.** RCW 82.32.265 and 1987 c 80 s 5 are each amended to read
26 as follows:

27 (1) The department may retain, by written contract, collection
28 agencies licensed under chapter 19.16 RCW or licensed under the laws of
29 another state or the District of Columbia for the purpose of collecting
30 from sources outside the state of Washington taxes including interest
31 and penalties thereon imposed under this title and RCW 84.33.041.

32 (2) Only accounts represented by (~~tax warrants~~) liens filed (~~in~~
33 ~~the superior court of a county in the state~~) as provided by (~~RCW~~
34 ~~82.32.210~~) chapter 60.-- RCW (sections 1 through 22 and 25 of this
35 act) may be assigned to a collection agency, and no such assignment may
36 be made unless the department has previously notified or has attempted
37 to notify the taxpayer of his or her right to petition for correction

1 of assessment within the time provided and in accordance with the
2 procedures set forth in chapter 82.32 RCW.

3 (3) Collection agencies assigned accounts for collection under
4 this section shall have only those remedies and powers that would be
5 available to them as assignees of private creditors. However, nothing
6 in this section limits the right to enforce the liability for taxes
7 lawfully imposed under the laws of this state in the courts of another
8 state or the District of Columbia as provided by the laws of such
9 jurisdictions and RCW 4.24.140 and 4.24.150.

10 (4) The account of the taxpayer shall be credited with the amounts
11 collected by a collection agency before reduction for reasonable
12 collection costs, including attorneys fees, that the department is
13 authorized to negotiate on a contingent fee or other basis.

14 **Sec. 43.** RCW 82.42.060 and 1969 ex.s. c 254 s 5 are each amended
15 to read as follows:

16 The amount of aircraft fuel excise tax imposed under RCW 82.42.020
17 for each month shall be paid to the director on or before the twenty-
18 fifth day of the month thereafter, and if not paid prior thereto, shall
19 become delinquent at the close of business on that day, and a penalty
20 of ten percent of such excise tax must be added thereto for
21 delinquency. Any aircraft fuel tax, penalties, and interest payable
22 under the provisions of this chapter shall bear interest at the rate of
23 one percent per month, or fraction thereof, from the first day of the
24 calendar month after the close of the monthly period for which the
25 amount or any portion thereof should have been paid until the date of
26 payment. The provisions of (~~RCW 82.36.110~~) chapter 60.-- RCW
27 (sections 1 through 22 and 25 of this act) relating to a lien for
28 taxes, interests or penalties due, shall be applicable to the
29 collection of the aircraft fuel excise tax provided in RCW 82.42.020,
30 and the provisions of RCW 82.36.120(~~(, 82.36.130)~~) and 82.36.140 shall
31 apply to any distributor of aircraft fuel with respect to the aircraft
32 fuel excise tax imposed under RCW 82.42.020.

33 NEW SECTION. **Sec. 44.** The following acts or parts of acts are
34 each repealed:

- 35 (1) RCW 46.87.340 and 1993 c 307 s 16 & 1987 c 244 s 47;
36 (2) RCW 46.87.360 and 1987 c 244 s 49;
37 (3) RCW 46.87.370 and 1987 c 244 s 50;

- 1 (4) RCW 50.24.040 and 1987 c 111 s 3, 1973 1st ex.s. c 158 s 8,
2 1953 ex.s. c 8 s 16, & 1945 c 35 s 92;
- 3 (5) RCW 50.24.050 and 1981 c 302 s 39, 1979 ex.s. c 190 s 2, 1973
4 1st ex.s. c 158 s 9, 1947 c 215 s 19, & 1945 c 35 s 95;
- 5 (6) RCW 50.24.080 and 1979 ex.s. c 190 s 4 & 1945 c 35 s 96;
- 6 (7) RCW 50.24.090 and 1979 ex.s. c 190 s 5 & 1945 c 35 s 97;
- 7 (8) RCW 50.24.100 and 1979 ex.s. c 190 s 6, 1949 c 214 s 20, &
8 1945 c 35 s 98;
- 9 (9) RCW 50.24.115 and 1983 1st ex.s. c 23 s 16, 1979 ex.s. c 190
10 s 8, & 1975 1st ex.s. c 228 s 15;
- 11 (10) RCW 51.16.170 and 1986 c 9 s 5 & 1961 c 23 s 51.16.170;
- 12 (11) RCW 51.16.180 and 1971 ex.s. c 289 s 79 & 1961 c 23 s
13 51.16.180;
- 14 (12) RCW 51.48.170 and 1986 c 9 s 14;
- 15 (13) RCW 51.48.180 and 1986 c 9 s 15;
- 16 (14) RCW 51.48.190 and 1986 c 9 s 16;
- 17 (15) RCW 51.48.200 and 1986 c 9 s 17;
- 18 (16) RCW 51.48.220 and 1986 c 9 s 21;
- 19 (17) RCW 82.32.210 and 1987 c 405 s 15, 1983 1st ex.s. c 55 s 8,
20 1967 ex.s. c 89 s 3, & 1961 c 15 s 82.32.210;
- 21 (18) RCW 82.32.220 and 1983 1st ex.s. c 55 s 10, 1961 c 304 s 6,
22 & 1961 c 15 s 82.32.220;
- 23 (19) RCW 82.32.230 and 1983 1st ex.s. c 55 s 11, 1975 1st ex.s. c
24 278 s 84, & 1961 c 15 s 82.32.230;
- 25 (20) RCW 82.32.245 and 1985 c 414 s 3;
- 26 (21) RCW 82.36.047 and 1991 c 339 s 4;
- 27 (22) RCW 82.36.110 and 1993 c 54 s 3 & 1961 c 15 s 82.36.110;
- 28 (23) RCW 82.36.130 and 1961 c 15 s 82.36.130;
- 29 (24) RCW 82.37.090 and 1963 ex.s. c 22 s 9;
- 30 (25) RCW 82.38.210 and 1979 c 40 s 15 & 1971 ex.s. c 175 s 22;
- 31 (26) RCW 82.38.230 and 1979 c 40 s 17 & 1971 ex.s. c 175 s 24; and
32 (27) RCW 82.38.235 and 1979 c 40 s 22.

33 NEW SECTION. **Sec. 45.** If any provision of this act or its
34 application to any person or circumstance is held invalid, the
35 remainder of the act or the application of the provision to other
36 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 46.** Sections 1 through 22 and 25 of this act
2 shall constitute a new chapter in Title 60 RCW.

3 NEW SECTION. **Sec. 47.** This act shall take effect on January 2,
4 1996.

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