

SENATE BILL NO. 31—COMMITTEE ON REVENUE
(ON BEHALF OF THE DEPARTMENT OF TAXATION)

PREFILED DECEMBER 14, 2010

Referred to Committee on Revenue

SUMMARY—Extends the period for the Department of Taxation or a county to take certain actions relating to delinquent taxes. (BDR 32-434)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to taxes; extending the period for the Department of Taxation or a county to bring an action in a court of competent jurisdiction for summary judgment against a person owing a delinquent tax or deficiency determination; extending the period for the Department or a county to record a tax lien; extending the period for the Department or a county to issue a warrant for the enforcement of a lien and collect a delinquent tax; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 If a person owes delinquent taxes or has a deficiency determination against him
2 or her with respect to any tax administered by the Department of Taxation, existing
3 law authorizes the Department to attempt collection of the tax or deficiency in
4 certain ways. The Department may: (1) file an action in any court of competent
5 jurisdiction for summary judgment for the amount due; (2) file a certificate in the
6 office of any county recorder, at which time the amount due becomes a lien upon
7 all real and personal property the person owns or acquires in the county before the
8 lien expires or is discharged; and (3) issue a warrant for the enforcement of a lien
9 and for the collection of any delinquent tax or fee. (NRS 360.420, 360.473,
10 360.483) Existing law also allows a county to take such actions when any tax is
11 delinquent on a transfer of real property in the county. (NRS 375.160, 375.170,
12 375.200) Such actions must occur within 3 years after the date the tax, fee or
13 deficiency determination was due. Existing law allows the State Controller to take
14 certain actions with respect to unpaid debts to the State within 4 years after the debt
15 becomes due. (NRS 353C.140, 353C.150) This bill similarly extends the time by



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16 which the Department or county may take action to collect delinquent taxes, fees or
17 deficiencies to within 4 years after payment was due.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 360.420 is hereby amended to read as follows:
2 360.420 1. If, with respect to any tax or fee administered by
3 the Department, a person:

4 (a) Fails to pay the tax or fee when due according to his or her
5 own return filed with the Department;

6 (b) Fails to pay a deficiency determination when due; or

7 (c) Defaults on a payment pursuant to a written agreement with
8 the Department,

9 ↪ the Department may, within ~~3~~ 4 years after the amount is due,
10 file in the office of the clerk of any court of competent jurisdiction
11 an application for the entry of a summary judgment for the amount
12 due.

13 2. The application must be accompanied by a certificate
14 specifying:

15 (a) The amount required to be paid, including any interest and
16 penalties due;

17 (b) The name and address of the person liable for the payment,
18 as they appear on the records of the Department;

19 (c) The basis for the determination of the Department of the
20 amount due; and

21 (d) That the Department has complied with the applicable
22 provisions of law in relation to the determination of the amount
23 required to be paid.

24 3. The application must include a request that judgment be
25 entered against the person in the amount required to be paid,
26 including any interest and penalties due, as set forth in the
27 certificate.

28 **Sec. 2.** NRS 360.473 is hereby amended to read as follows:

29 360.473 1. If any tax or fee administered by the Department
30 is not paid when due, the Department may, within ~~3~~ 4 years after
31 the date that the tax or fee was due, file for record a certificate in the
32 office of any county recorder which states:

33 (a) The amount of the tax or fee and any interest or penalties
34 due;

35 (b) The name and address of the person who is liable for the
36 amount due as they appear on the records of the Department; and

37 (c) That the Department has complied with all procedures
38 required by law for determining the amount due.



2. From the time of the filing of the certificate, the amount due, including interest and penalties, constitutes a lien upon all real and personal property in the county owned by the person or acquired by the person afterwards and before the lien expires. The lien has the effect and priority of a judgment lien and continues for 5 years after the time of the filing of the certificate unless sooner released or otherwise discharged.

3. Within 5 years after the date of the filing of the certificate or within 5 years after the date of the last extension of the lien pursuant to this subsection, the lien may be extended by filing for record a new certificate in the office of the county recorder of any county. From the time of filing, the lien is extended to all real and personal property in the county owned by the person or acquired by the person afterwards for 5 years, unless sooner released or otherwise discharged.

Sec. 3. NRS 360.483 is hereby amended to read as follows:

360.483 1. The Department or its authorized representative may issue a warrant for the enforcement of a lien and for the collection of any delinquent tax or fee which is administered by the Department:

(a) Within ~~3~~ 4 years after the person is delinquent in the payment of the tax or fee; or

(b) Within 5 years after the last recording of an abstract of judgment or of a certificate constituting a lien for the tax or fee.

2. The warrant must be directed to a sheriff or constable and has the same effect as a writ of execution.

3. The warrant must be levied and sale made pursuant to the warrant in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution.

Sec. 4. NRS 375.160 is hereby amended to read as follows:

375.160 1. If any tax imposed pursuant to this chapter is not paid when due, the county may, within ~~3~~ 4 years after the date that the tax was due, record a certificate in the office of the county recorder which states:

(a) The amount of the tax and any interest or penalties due;

(b) The name and address of the person who is liable for the amount due as they appear on the records of the county; and

(c) That the county recorder has complied with all procedures required by law for determining the amount due.

2. From the time of the recording of the certificate, the amount due, including interest and penalties, constitutes:

(a) A lien upon the real property for which the tax was due if the person who owes the tax still owns the property; or

(b) A demand for payment if the property has been sold or otherwise transferred to another person.



3. The lien has the effect and priority of a judgment lien and continues for 5 years after the time of the recording of the certificate unless sooner released or otherwise discharged.

4. Within 5 years after the date of recording the certificate or within 5 years after the date of the last extension of the lien pursuant to this subsection, the lien may be extended by recording a new certificate in the office of the county recorder. From the time of recording the new certificate, the lien is extended for 5 years, unless sooner released or otherwise discharged.

Sec. 5. NRS 375.170 is hereby amended to read as follows:

375.170 1. If a person is delinquent in the payment of any tax imposed by this chapter or has not paid the amount of a deficiency determination, the county may bring an action in a court of this state, a court of any other state or a court of the United States that has competent jurisdiction to collect the delinquent or deficient amount, penalties and interest. The action:

(a) May not be brought if the decision that the payment is delinquent or that there is a deficiency determination is on appeal to a hearing officer pursuant to NRS 375.320.

(b) Must be brought not later than ~~3~~ 4 years after the payment became delinquent or the determination became final.

2. The district attorney shall prosecute the action. The provisions of the Nevada Revised Statutes, Nevada Rules of Civil Procedure and Nevada Rules of Appellate Procedure relating to service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings. In the action, a writ of attachment may issue. A bond or affidavit is not required before an attachment may be issued.

3. In an action, a certificate by the county recorder showing the delinquency is prima facie evidence of:

(a) The determination of the tax or the amount of the tax;

(b) The delinquency of the amounts; and

(c) The compliance by the county recorder with all the procedures required by law relating to the computation and determination of the amounts.

Sec. 6. NRS 375.200 is hereby amended to read as follows:

375.200 1. The county or its authorized representative may issue a warrant for the enforcement of a lien and for the collection of any delinquent tax that is administered pursuant to this chapter:

(a) Within ~~3~~ 4 years after the person is delinquent in the payment of the tax; or

(b) Within 5 years after the last recording of a certificate copy constituting a lien for the tax.

2. The warrant must be directed to a sheriff or constable and has the same effect as a writ of execution.



- 1 3. The warrant must be levied and sale made pursuant to the
- 2 warrant in the same manner and with the same effect as a levy of
- 3 and a sale pursuant to a writ of execution.
- 4 **Sec. 7.** This act becomes effective on July 1, 2011.

