



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

FINAL FISCAL NOTE

Drafting Number: LLS 18-1041 Date: May 23, 2018
Prime Sponsors: Rep. Benavidez Sen. Court Bill Status: Postponed Indefinitely
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Bill Topic: DOR ENFORCEMENT MEASURES COLLECTION OF TAX OWED

Summary of Fiscal Impact: State Revenue, State Expenditure (minimal), State Transfer, TABOR Refund, Local Government (minimal), Statutory Public Entity

This bill codifies current practice regarding the enforcement of tax liabilities and clarifies that a certificate of sale issued by a government agency or court order serves the same purpose as a certificate of title for the purposing of transferring ownership of a motor vehicle. It creates a minimal workload impact for the state and local governments.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Summary of Legislation

This bill makes several clarifications and modifications related to addressing tax liabilities.

Limitations. Under current law, the assessment of any tax, penalties, and interest must be made within one year after the expiration of the time provided to address a tax liability. This bill creates an exception to this timeframe:

- for any period during which the taxpayer's assets are in the control or custody of a court in any proceeding before any court of the United States or any state, and for six months thereafter; or
in a case under Title 11 of the United States Code for any period during which the Department of Revenue (DOR) is prohibited by reason of the case from collecting, and for six months thereafter.

Seizing and sale of vehicles. Currently, when personal property is seized for delinquent taxes and later sold by the seizing agency, the purchaser is provided with a government certificate of sale or court order. The government certificate of sale or court order is accepted for purposes of transferring ownership. Under this bill, when the subject of the sale is a motor vehicle, the certificate of sale is required to be accepted in lieu of a certificate of title and voids previously issued titles to that motor vehicle.

**Jurisdiction regarding enforcement of tax collection.** In addition to other remedies available to the DOR, the bill specifies that any district court in the state has jurisdiction to make and issue warrants, writs of entry, or any other writs or orders as necessary to collect any tax, interest, or penalty.

**Surrender of property subject to tax levies.** The bill clarifies that a person must surrender this property upon the demand of the DOR. An exception is created if the person, at the time of the demand, has a valid right of setoff or an interest superior to the DOR's. If the person is a bank or other financial institution, it must surrender any deposits within 21 days after service of the levy. If the person is an employer, it must surrender the salary or wages within 21 days after the end of the taxpayer's pay period. The effect of a levy on salary or wages payable to or received by a taxpayer is continuous from the date the levy is first made until the DOR releases the levy. The levy for any pay period may not exceed 25 percent of the taxpayer's disposable earnings. Any person who fails to surrender the property upon the demand is liable to the state for an amount equal to the levied property, not to exceed the amount of the tax liability. Any person in possession of property or rights to property belonging to a taxpayer that is subject to levy and surrenders the property or pays the liability is discharged from any obligation or liability to the delinquent taxpayer arising from the surrender or payment.

### **Background and Assumptions**

Except for the provisions regarding motor vehicles, the language of the bill codifies current practices and as such, has no fiscal impact.

### **State Expenditures**

Beginning in the current FY 2017-18, the bill minimally increases workload for the Department of Revenue to update rules, forms, manuals, and its website, and to conduct training for its authorized agents, staff, and law enforcement personnel. No increase in appropriations is required.

### **Local Government**

The bill increases workload for local law enforcement to become aware of the bill's requirements and for county departments of motor vehicles to update policies concerning accepting certificates of sale issued by tax agents. These impacts are assumed to be minimal.

### **Effective Date**

The bill was postponed indefinitely by the Senate State, Veterans, and Military Affairs Committee on April 18, 2018.

### **State and Local Government Contacts**

Information Technology      Judicial      Law      Revenue