

1 HOUSE BILL 463

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 David M. Gallegos

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10 AN ACT

11 RELATING TO TAXATION; PROVIDING FOR A WARRANT OF LEVY ON A
12 FINANCIAL INSTITUTION TO BE SERVED ELECTRONICALLY.

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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. Section 7-1-31 NMSA 1978 (being Laws 1965,
16 Chapter 248, Section 33, as amended) is amended to read:

17 "7-1-31. SEIZURE OF PROPERTY BY LEVY FOR COLLECTION OF
18 TAXES.--

19 A. The secretary or secretary's delegate may
20 proceed to collect tax from a delinquent taxpayer by levy upon
21 all property or rights to property of [~~such person and the~~
22 ~~conversion thereof~~] the delinquent taxpayer and convert that
23 property or rights to property to money by appropriate means.

24 B. A levy is made by taking possession of property
25 pursuant to authority contained in a warrant of levy or by the

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underscored material = new
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1 service, by the secretary or secretary's delegate or any
2 sheriff or certified law enforcement employee of the department
3 of public safety, of the warrant upon the taxpayer or other
4 person in possession of property or rights to property of the
5 taxpayer, upon the taxpayer's employer or upon any person or
6 depositary owing or who will owe money to or holding funds of
7 the taxpayer, ordering [~~him~~] the employer or person to reveal
8 the extent thereof and surrender it to the secretary or
9 secretary's delegate forthwith or agree to surrender it or the
10 proceeds therefrom in the future, but in any case on the terms
11 and conditions stated in the warrant.

12 C. The department may serve a warrant of levy upon
13 a financial institution in electronic format when the
14 electronic format is mutually agreed upon by the department and
15 the financial institution."

16 SECTION 2. Section 7-1-32 NMSA 1978 (being Laws 1965,
17 Chapter 248, Section 34, as amended) is amended to read:

18 "7-1-32. CONTENTS OF WARRANT OF LEVY.--A warrant of levy
19 shall:

20 A. bear on its face a statement of the authority
21 for its service and compelling compliance with its terms, shall
22 be attested by the secretary, by electronic signature if
23 necessary, and shall bear the seal of the department, unless
24 the warrant is served in electronic format upon a financial
25 institution;

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1 B. identify the taxpayer whose liability for taxes
2 is sought to be enforced, the amount thereof and the date or
3 approximate date on which the tax became due;

4 C. order the person on whom it is served to reveal
5 the amount of property or rights to property in [~~his own~~] the
6 person's possession that belong to the taxpayer and the extent
7 of [~~his own~~] the person's interest therein and to reveal the
8 amount and kind of property or rights to property of the
9 taxpayer that are, to the best of [~~his~~] the person's knowledge,
10 in the possession of others;

11 D. order the person on whom it is served to
12 surrender the property forthwith but may allow [~~him~~] the person
13 to agree in writing to surrender the property or the proceeds
14 therefrom on a certain date in the future when the taxpayer's
15 right to it would otherwise mature;

16 E. order the employer of the taxpayer to surrender
17 wages or salary of the taxpayer in excess of the amount exempt
18 under Section 7-1-36 NMSA 1978 owed by the employer to the
19 taxpayer at the time of service of the levy and [~~which~~] that
20 may become [~~owing~~] owed by the employer to the taxpayer
21 subsequent to the service of the levy until the full amount of
22 the liability stated on the levy is satisfied or until notified
23 by the secretary or the secretary's delegate;

24 F. state on its face the penalties for willful
25 failure by any person upon whom it is served to comply with its

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terms; and

G. state that the state of New Mexico claims a lien for the entire amount of tax asserted to be due, including applicable interest and penalties."

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.