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HOUSE BILL 249

**51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014**

INTRODUCED BY

David M. Gallegos

AN ACT

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

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

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

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

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

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

.195313.1SA

underscored material = new  
[bracketed material] = delete

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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 pursuant to the  
14 Electronic Authentication of Documents Act and the Uniform  
15 Electronic Transactions Act."

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 pursuant to the Electronic Authentication of

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1 Documents Act and the Uniform Electronic Transactions Act;

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

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

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

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

25 F. state on its face the penalties for willful

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underscoring material = new  
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1 failure by any person upon whom it is served to comply with its  
2 terms; and

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

6 SECTION 3. EFFECTIVE DATE.--The effective date of the  
7 provisions of this act is July 1, 2014.