

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 220

H. P. 163

House of Representatives, January 19, 1971
Referred to Committee on Taxation. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Cottrell of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT to Provide an Effective Income Tax Warrant Procedure.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 36, § 5311, sub-§ 2, amended. The 2nd sentence of subsection 2 of section 5311 of Title 36 of the Revised Statutes, as enacted by Section F of chapter 154 of the private and special laws of 1969, is amended to read as follows:

Such notice shall be left at the dwelling place or usual place of business of such person or shall be sent by certified or registered mail to such person's last known address and shall warn the person that if he does not make the payment as demanded the assessor will certify the amount due to the Attorney General for collection by warrant as provided.

Sec. 2. R. S., T. 36, § 5312, repealed and replaced. Section 5312 of Title 36 of the Revised Statutes, as enacted by Section F of chapter 154 of the private and special laws of 1969, is repealed and the following enacted in place thereof:

§ 5312. Warrant; request for and issuance

If any taxpayer liable to pay any tax, addition to tax, penalty or interest imposed under this part neglects or refuses to pay the same within 10 days after notice and demand and the tax assessed is final as to law and fact under this part, or is due and owing based on a return filed by the taxpayer, the assessor shall certify the tax required to be paid, interest and penalty, to the Attorney General for collection.

The Attorney General may file in the office of the clerk of the Superior Court of Kennebec County, or any county, a certificate addressed to the clerk

specifying the tax required to be paid, interest and penalty due, the name and address of the person liable as it appears on the records of the assessor, the facts whereby said tax has become final as to law and fact, or is due and owing based on a return filed by the taxpayer, the notice given, and requesting that a warrant be issued against the person for the tax required to be paid, together with interest and penalty as set forth in the certificate, and with costs.

If the assessor thinks there are just grounds to fear that such person may abscond within the 10-day period, he shall not be required to give notice to and make demand upon the person, and may, without further notice, certify the amount of tax, interest and penalty due to the Attorney General for collection.

The clerk of the Superior Court, immediately upon the filing of the certificate shall issue a warrant in favor of the State of Maine against the person in the amount of tax to be paid together with interest and penalty as set forth in the certificate, and with costs.

The clerk of the Superior Court shall file the certificate in a looseleaf book entitled "Special Warrants for State Income Tax." These records are not to become a part of the extended record of said court.

Sec. 3. R. S., T. 36, §§ 5312-A - 5312-B, additional. Title 36 of the Revised Statutes is amended by adding 2 new sections to be numbered 5312-A and 5312-B, to read as follows:

§ 5312-A. — Form and effect

The warrant shall have the force and effect of an execution issued upon a judgment in a civil action for taxes and may be in substantially the following form:

".....," ss. — To the Sheriffs of our respective
(name of county)

counties or either of their Deputies,

"Whereas, the Attorney General has certified that, pursuant to the terms of Title 36 Section 5312 of the Revised Statutes the amount of income tax, assessed against
of with interest and penalty, has become
is due and

final as to law and fact, to wit:

based on a return filed by the taxpayer, to wit:

(strike out inapplicable provision)

Income Tax \$.....

Penalty

Interest

Total

and \$ costs of this proceeding,

and the same is unpaid;

"We command you, therefore, that of the money, goods and chattels of said debtor, in your precinct, or the value thereof in money, you cause to be paid and satisfied unto the State of Maine said total and costs, and cents more for this warrant, together with your own fees.

"And for want of money, goods or chattels of said debtor, to be by him shown unto you, or found in your precinct, to the acceptance of the Attorney General of the State of Maine, to satisfy the sums aforesaid, we command you to take the body of said debtor, and commit him unto any of our jails in said counties, and there detain in your custody, until he shall pay the full sums aforesaid, with your fees, or be discharged by said State of Maine, or otherwise by order of law.

Hereof fail not, and make due return of this warrant, with your doings thereon, unto my office within 3 months from the date hereof.

.....
 Clerk of Courts, County of
 Date"

Warrants shall be returnable within 3 months. New warrants may be issued on any such certificate within 2 years from the return day of the last preceding warrant for sums remaining unsatisfied.

Warrants shall be served by the sheriff of any county or by any of his deputies in the county where the person may be found.

§ 5312-B. Arrest and commitment

When an officer by virtue of said warrant, for want of property, arrests any person and commits him to jail, he shall give an attested copy of his warrant to the jailer and certify, under his hand, the sum that such person is to pay as his tax, interest and penalty and the costs of obtaining the warrant, and the costs of arresting and committing, and that for want of goods and chattels whereon to levy he has been arrested; and such copy and certificate are a sufficient warrant to require the jailer to receive and keep such person in custody until he pays his tax, said other charges and \$1 for the copy of the warrant; but such person shall have the same rights and privileges as a debtor arrested or committed on execution as provided in Title 14, chapters 503 and 505.

No married woman or officer of a debtor corporation shall be arrested under this warrant.

STATEMENT OF FACT

The purpose of the various provisions embodied in this proposed legislation is to provide a warrant procedure for collection of income tax similar to the warrant procedure now available for the collection of sales and use tax.