

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 480

H. P. 391

House of Representatives, February 16, 1977

On motion of Mr. Carey of Waterville, referred to the Committee on Taxation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Carey of Waterville.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT Providing for the Service of Warrants by Agents of the State Tax Assessor.

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

Sec. 1. 36 MRSA § 1901 is amended by adding at the end a new sentence to read:

The Tax Assessor shall have the authority to name any of these assistants as his agent authorized to collect any tax imposed under the Sales and Use Tax Law.

Sec. 2. 36 MRSA § 1959, 1st ¶, last sentence, as last repealed and replaced by PL 1975, c. 702, § 9, is amended to read:

Such notice shall be given as required by section 1906 and shall warn the person that if he does not make payment as demanded the Tax Assessor ~~will certify~~ **may proceed to have** the amount due to the ~~Attorney General for collection~~ **collected by warrant as provided or may certify the amount due to the Attorney General for collection** and, in addition, in the case of an amount due in respect to any vehicle, that if he does not make payment as demanded, suspension of the registration certificate and plates issued for such vehicle may result.

Sec. 3. 36 MRSA § 1959, 2nd ¶ is amended to read:

If the person does not make the payment as demanded within said 12-day period, or such extension thereof as the Tax Assessor may allow, the Tax Assessor ~~shall certify the amount 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 amount required to be paid, interest and penalty due, the name and address of the person liable as it appears on the records of the Tax Assessor, the facts whereby said amount has become final as to law and fact, the notice given, and requesting that a warrant be issued against the person in the amount required to be paid, together with interest and penalty as set forth in the certificate, and with costs.

Sec. 4. 36 MRSA § 1959, 3rd ¶ is amended to read :

If the Tax Assessor thinks there are just grounds to fear that such person may abscond within the 12-day period, he shall not be required to give notice to the person and may, without further notice, ~~certify the amount due to the Attorney General for collection~~ file in the office of the clerk of the Superior Court a certificate addressed to the clerk requesting the immediate issuance of a warrant.

Sec. 5. 36 MRSA § 1962, as last amended by PL 1975, c. 765, § 22, is repealed and the following enacted in its place :

§ 1962. 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 directed to the sheriffs of the respective counties, their deputies or to any agent of the Tax Assessor authorized pursuant to section 1902 to collect any tax imposed under the Sales and Use Tax Law.

In the execution of the warrant and the collection of the taxes or in supplementary disclosure proceedings thereto pursuant to Title 14, chapter 502, an agent of the Tax Assessor shall have the powers of a sheriff and shall be entitled to collect from the debtor the same fees and charges permitted to a sheriff. All fees and charges collected by the agent of the Tax Assessor shall be promptly remitted to the State of Maine.

The warrants may be in substantially the following form :

“....., ss. — To the Sheriffs of our respective counties
(Name of County)
or either of their Deputies, or any Agent of the State Tax Assessor authorized to collect taxes imposed under the Sales and Use Tax Law,

“Whereas, the State Tax Assessor has certified that, pursuant to the terms of the Revised Statutes, Title 36, sections 1957 or 1958, or both, the amount of certain sales or use taxes, assessed against
of, with interest and penalty, has become final as to law and fact, to wit :

Sales or Use Tax	\$.....
Penalty
Interest
	<hr/>
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.

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

.
Clerk of Courts, County of
Date”

Warrants shall be returnable within one year. 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 or by any agent of the State Tax Assessor authorized to collect taxes imposed under the Sales and Use Tax Law in the county where the person may be found.

Sec. 6. 36 MRSA § 5311, sub-§ 2, 2nd sentence, as last amended by PL 1971, c. 37, § 1, is further amended to read:

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~~ may certify the amount due ~~to the Attorney General~~ for collection by warrant as provided, or may certify the amount due to the Attorney General for collection.

Sec. 7. 36 MRSA § 5311, sub-4 is enacted to read:

4. Naming of agent. The assessor shall have the authority to name any of his employees as his agent authorized to collect any tax imposed under the Maine Income Tax Law.

Sec. 8. 36 MRSA § 5312, 1st and 2nd ¶¶, as last repealed and replaced by PL 1971, c. 37, § 2, are repealed and the following enacted in their places:

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 may certify the tax required to be paid, interest and penalty to the Attorney General for collection, or the assessor 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 that 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.

Sec. 9. 36 MRSA § 5312, 3rd ¶, as last repealed and replaced by PL 1971, c. 37, § 2, is amended to read:

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 or may, without further notice, file in the office of the clerk of the Superior Court a certificate addressed to the clerk requesting the immediate issuance of a warrant.

Sec. 10. 36 MRSA § 5312-A, as amended by PL 1975, c. 765, § 29, is repealed and the following enacted in its place:

§ 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 directed to the sheriffs of the respective counties, their deputies, or to any agent of the assessor authorized pursuant to section 5311, subsection 4 to collect any tax imposed under the Maine Income Tax Law.

In the execution of the warrant and the collection of the taxes or in supplementary disclosure proceedings thereto pursuant to Title 14, chapter 502, an agent of the assessor shall have the powers of a sheriff and shall be entitled to collect from the debtor the same fees and charges permitted to a sheriff. All fees and charges collected by the agent of the assessor shall be promptly remitted to the State of Maine.

The warrant may be in substantially the following form:

“....., ss. — To the Sheriffs of our respective counties
(Name of County)

or either of their Deputies, or any Agent of the State Tax Assessor, authorized to collect taxes imposed under the Maine Income Tax Law.

“Whereas, the State Tax Assessor has certified that, pursuant to the terms of the Revised Statutes, Title 36, section 5312 the amount of income tax assessed against of, with interest and penalty, has become final as to law and fact, or is due and owing based on a return filed by the taxpayer, to wit:

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.

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

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

Warrants shall be returnable within one year. New warrants may be issued on 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 or by any agent of the State Tax Assessor authorized to collect taxes imposed under the Maine Income Tax Law in the county where the person may be found.

STATEMENT OF FACT

This bill would provide, in regard to sale and use and income tax delinquent accounts, that certain field employees of the Bureau of Taxation would be vested with the same authority as Sheriffs and Deputy Sheriffs now have in regard to warrants which have the force and effect of executions issued upon judgment in a civil action for taxes. Additionally, the State Tax Assessor can directly obtain a warrant from the court without involving the Attorney General.