

MAINE STATE LEGISLATURE

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N I N E T Y - E I G H T H L E G I S L A T U R E

Legislative Document

No. 1244

H. P. 876

House of Representatives, March 13, 1957

Referred to the Committee on Judiciary, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Walker of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-SEVEN

AN ACT Relating to Warrants on Sales and Use Tax Assessments.

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

Sec. 1. R. S., c. 17, §§ 33-A - 33-E, additional. Chapter 17 of the Revised Statutes is hereby amended by adding thereto 5 new sections, to be numbered 33-A to 33-E, inclusive, to read as follows:

‘Sec. 33-A. Request for warrant. If any amount required to be paid to the State under this chapter is not paid when due, and has become final as to law and fact under section 32 or 33 of this chapter, the Assessor may within 3 years after the amount has become final, notify the person who according to the records of the Assessor is liable, specifying the amount required to be paid, interest and penalty due, and demanding payment within 12 days after the sending of such notice. Such notice shall be given as required by section 28 of this chapter and shall warn the person that if he does not make the payment as demanded the Assessor will seek a warrant as herein provided.

If the person does not make the payment as demanded within said 12-day period, or such extension thereof as the Assessor may allow, the Assessor may, in term time or vacation, 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 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.

If the 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 request that such warrant issue forthwith without notice.

Sec. 33-B. Warrant to be issued. 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 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 Sales or Use Tax." These records are not to become a part of the extended record of said court.

Sec. 33-C. Warrant to be recorded; lien. An abstract of the warrant or a copy may be filed for record with the register of deeds of any county. From the time of filing, the amount required to be paid, together with interest, penalty and costs, constitutes a lien upon all the real property in the county owned by the person liable or acquired by him afterwards and before the lien expires. The lien has the force, effect and priority of a judgment lien and shall continue for 5 years from the date of recording unless sooner released or otherwise discharged. The lien may within said 5-year period or within 5 years from the date of the last extension of the lien in the manner provided in this section, be extended by filing for record in the office of the register of deeds an abstract or copy of the warrant and from the time of such filing the lien shall be extended for 5 years unless sooner released or otherwise discharged.

Sec. 33-D. Form and effect of warrant. The warrant shall have the force and effect of an execution issued upon a judgment in an action of debt for taxes and may be in substantially the following form:

"....., ss. — To the Sheriffs of our respective counties
 (Name of county)
 or either of their Deputies,
 "Whereas, the State Tax Assessor has certified that, pursuant to the terms of section 32 or 33, or both, of chapter 17 of the Revised Statutes 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	_____
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 State Tax Assessor 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.

Sec. 33-E. 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 in favor of a private creditor.

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

Sec. 2. R. S., c. 89, § 99, amended. Section 99 of chapter 89 of the Revised Statutes is hereby amended by adding a new paragraph at the end thereof to read as follows:

‘For filing each warrant for state sales or use tax, \$1.’

Sec. 3. R. S., c. 89, § 150, amended. Section 150 of chapter 89 of the Revised Statutes, as amended by chapter 267 of the public laws of 1955, is hereby further amended by adding thereto a new subsection, to be numbered XIX, to read as follows:

‘XIX. For the service of a sales or use tax warrant and arrest as provided by sections 33-A to 33-D, inclusive, of chapter 17 the same as for service of civil process, and for civil arrests. For collecting sales or use taxes, penalties and interest, pursuant to such warrants, for every dollar of the first \$100, 4c; for every dollar above \$100 and not exceeding \$200, 3c; and for every dollar above \$200, 2c. Additional services, including travel, shall be charged as elsewhere in this section provided.’