



Senate

General Assembly

File No. 575

January Session, 2007

Substitute Senate Bill No. 1151

Senate, April 25, 2007

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING ALIAS TAX WARRANTS AND EXECUTIONS AGAINST DEBTS DUE TO JUDGMENT DEBTORS SERVED UPON FINANCIAL INSTITUTIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 12-162 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) Any collector of taxes, in the execution of tax warrants, shall
4 have the same authority as state marshals have in executing the duties
5 of their office, and any constable or other officer authorized to serve
6 any civil process may serve a warrant for the collection of any tax
7 assessed, and the officer shall have the same authority as the collector
8 concerning taxes committed to such officer for collection.

9 (b) Upon the nonpayment of any property tax when due, demand
10 having been made therefor as prescribed by law for the collection of
11 such tax, an alias tax warrant may be issued by the tax collector, which
12 may be in the following form:

13 "To a state marshal of the County of ..., or any constable of the
14 Town of Greeting: By authority of the state of Connecticut you are
15 hereby commanded to collect forthwith from ... of ... the sum of ...
16 dollars, the same being the amount of a tax with interest or penalty
17 and charges which have accumulated thereon, which tax was levied by
18 (insert name of town, city or municipality laying the tax) upon (insert
19 the real estate, personal property, or both, as the case may be,) of said
20 ... as of the ... day of (In like manner insert the amount of any other
21 property tax which may have been levied in any other year, including
22 interest or penalty and charges which have accumulated thereon). In
23 default of payment of said amount you are hereby commanded to levy
24 for said tax or taxes, including interest, penalty and charges,
25 hereinafter referred to as the amount due on such execution, upon any
26 goods and chattels of such person and dispose of the same as the law
27 directs, notwithstanding the provisions of subsection (j) of section 52-
28 352b, and, after having satisfied the amount due on such execution,
29 return the surplus, if any, to him; or you are to levy upon the real
30 estate of such person and sell such real property pursuant to the
31 provisions of section 12-157, to pay the amount due on such execution;
32 or you shall, in accordance with the provisions of subsection (d) of
33 section 12-162, make demand upon the main office of any [banking]
34 financial institution indebted to such person, subject to the provisions
35 of section 52-367a or 52-367b, as if judgment for the amount due on
36 such execution had been entered, for that portion of any type of
37 deposit to the credit of or property held for such person, not exceeding
38 in total value the amount due on such execution; or you are to
39 garnishee the wages due such person from any employer, in the same
40 manner as if a wage execution therefor had been entered, in
41 accordance with section 52-361a.

42 Dated at this day of A.D. 20.., Tax Collector."

43 (c) Any officer serving an alias tax warrant pursuant to this section
44 shall make return to the collector of such officer's actions thereon
45 within ten days of the completion of such service and shall be entitled
46 to collect from such person the fees allowed by law for serving

47 executions issued by any court. Any state marshal or constable,
48 authorized as provided in this section, who executes such warrant and
49 collects any delinquent municipal taxes as a result thereof shall receive,
50 in addition to expenses otherwise allowed, a percentage of the taxes
51 collected pursuant to such warrant, calculated at the rate applicable for
52 the levy of an execution as provided in section 52-261. The minimum
53 fee for such service shall be thirty dollars. Any officer unable to serve
54 such warrant shall, within sixty days after the date of issuance, return
55 such warrant to the collector and in writing state the reason it was not
56 served.

57 (d) With respect to alias tax warrants served upon financial
58 institutions by any collector of taxes or officer authorized as provided
59 in this section:

60 (1) The collector or officer shall not serve more than one alias tax
61 warrant per taxpayer at a time, including copies thereof, and, after
62 service upon one financial institution, shall not serve the same alias tax
63 warrant or a copy thereof upon another financial institution until
64 having received confirmation from the preceding financial institution
65 that the taxpayer had no funds at the preceding financial institution
66 available for collection. If an alias tax warrant is returned by a financial
67 institution to the collector or officer partially satisfied, the collector or
68 officer shall not serve the alias tax warrant or a copy thereof upon
69 another financial institution, but the collector instead may issue a
70 replacement alias tax warrant to collect the balance due.

71 (2) Before the collector serves, or directs any officer to serve, more
72 than three alias tax warrants upon a particular financial institution on
73 the same day, the collector or officer shall serve upon such financial
74 institution a request for information that complies with subdivision (3)
75 of this subsection. No such alias tax warrant may be served upon a
76 financial institution with respect to any taxpayer unless the financial
77 institution, in a recent response to such request for information, has
78 indicated that the financial institution is indebted to such taxpayer. For
79 the purposes of this subdivision, a response is considered recent if the

80 alias tax warrant is served within one hundred eighty days after the
81 date such response is received.

82 (3) The request for information required by subdivision (2) of this
83 subsection shall be served upon the financial institution in accordance
84 with subdivision (4) of this subsection and shall include (A) the name
85 and address of each taxpayer who is the subject of an alias tax warrant
86 to be served by the collector or officer, provided no request for
87 information shall include more than two hundred fifty taxpayers, (B)
88 the address to which the response may be mailed or delivered or a
89 facsimile number to which the response may be transmitted, (C) in the
90 case of a request for information transmitted via facsimile by an officer,
91 the name, address, judicial district, badge number and phone number
92 of such officer, and (D) a statement in substantially the following form:

93 "To (insert name of financial institution): In accordance with section
94 12-162 of the general statutes, you are hereby commanded to report to
95 (insert name of municipality or officer), at the address or facsimile
96 number specified in this request, whether the financial institution is
97 indebted to the taxpayer or taxpayers listed in this request."

98 (4) The request for information prescribed by subdivision (3) of this
99 subsection shall be in writing and shall be: (A) Delivered to the main
100 office of a financial institution having its main office in this state; (B)
101 delivered to a branch office of a financial institution that does not have
102 its main office in this state, provided such branch office has been
103 designated by the financial institution for such purposes in accordance
104 with regulations adopted by the Banking Commissioner, in accordance
105 with chapter 54; or (C) transmitted via facsimile, provided the
106 facsimile message is transmitted to a facsimile number and addressed
107 to the attention of a recipient or department designated by the
108 financial institution for such purposes in accordance with regulations
109 adopted by the Banking Commissioner, in accordance with chapter 54.
110 A request for information received, whether by facsimile or otherwise,
111 after five o'clock p.m. on a business day, or on a day other than a
112 business day, shall be deemed to have been received by the financial

113 institution on the next business day.

114 (5) Upon receipt of a request for information that complies with
115 subdivision (3) of this subsection, the financial institution shall
116 respond to such request for information by reporting either that the
117 financial institution is indebted to one or more of the taxpayers listed
118 in the request for information, and listing the name or names of such
119 taxpayers, or that the financial institution is not indebted to any of the
120 taxpayers listed in the request for information. The financial institution
121 shall mail, deliver or transmit such response: (A) In the case of a
122 request for information listing less than one hundred taxpayers, no
123 later than five business days following the date the request for
124 information was received; or (B) in the case of a request for
125 information listing one hundred or more taxpayers, but not more than
126 two hundred fifty taxpayers, no later than ten business days following
127 the date the request for information was received. Once a request for
128 information has been served upon a financial institution by a collector
129 or officer on behalf of a municipality, an additional request for
130 information may not be served upon such financial institution by such
131 collector or any officer on behalf of the same municipality until the
132 financial institution has had an opportunity to respond as provided in
133 this subdivision. For the purposes of the response required by this
134 subdivision, the financial institution may select, with respect to each
135 taxpayer listed on the request for information, a specific day falling
136 within the time frame allotted by this subdivision for determining the
137 presence or absence of indebtedness, and the financial institution shall
138 not be responsible for reporting on the presence or absence of
139 indebtedness on any other day.

140 (6) No financial institution, and no officer, director or employee of
141 such financial institution, shall be liable to any person with respect to
142 any act done or omitted in good faith or through the commission of a
143 bona fide error that occurred despite reasonable procedures
144 maintained by the financial institution to prevent such errors in
145 complying with the provisions of this subsection.

146 (7) For the purposes of this subsection, "financial institution" has the
147 same meaning as provided in subsection (a) of section 52-367a.

148 Sec. 2. Section 36a-42 of the general statutes is repealed and the
149 following is substituted in lieu thereof (*Effective October 1, 2007*):

150 A financial institution may not disclose to any person, except to the
151 customer or the customer's duly authorized agent, any financial
152 records relating to such customer unless the customer has authorized
153 disclosure to such person or the financial records are disclosed in
154 response to (1) a certificate signed by the Commissioner of
155 Administrative Services or the Commissioner of Social Services
156 pursuant to the provisions of section 17b-137, (2) a lawful subpoena,
157 summons, warrant or court order as provided in section 36a-43, (3)
158 interrogatories by a judgment creditor or a demand by a levying
159 officer as provided in sections 52-351b and 52-356a, (4) a certificate
160 issued by a medical provider or its attorney under subsection (b) of
161 section 17b-124, provided nothing in this [subsection] subdivision shall
162 require the provider or its attorney to furnish to the financial
163 institution any application for medical assistance filed pursuant to an
164 agreement with the IV-D agency under subsection (c) of section 17b-
165 137, (5) a certificate signed by the Commissioner of Veterans' Affairs
166 pursuant to section 27-117, [or] (6) the consent of an elderly person or
167 the representative of such elderly person provided to a person,
168 department, agency or commission pursuant to section 17b-454,
169 provided the financial institution shall have no obligation to determine
170 the capacity of such elderly person or the representative of such
171 elderly person to provide such consent, or (7) a request for information
172 served upon the financial institution pursuant to subsection (d) of
173 section 12-162, as amended by this act.

174 Sec. 3. Subsection (b) of section 52-367a of the general statutes is
175 repealed and the following is substituted in lieu thereof (*Effective*
176 *October 1, 2007*):

177 (b) Execution may be granted pursuant to this section against any
178 debts due from any financial institution to a judgment debtor which is

179 not a natural person. If execution is desired against any such debt, the
180 plaintiff requesting the execution shall make application to the clerk of
181 the court. The application shall be accompanied by a fee of thirty-five
182 dollars payable to the clerk of the court for the administrative costs of
183 complying with the provisions of this section which fee may be
184 recoverable by the judgment creditor as a taxable cost of the action.
185 The clerk shall issue such execution containing a direction that the
186 officer serving such execution shall make demand (1) upon the main
187 office of any financial institution having its main office within the
188 county of the serving officer, or (2) if such main office is not within the
189 serving officer's county and such financial institution has one or more
190 branch offices within such county, upon an employee of such a branch
191 office, such employee and branch office having been designated by the
192 financial institution in accordance with regulations adopted by the
193 Banking Commissioner, in accordance with chapter 54, for the
194 payment of any debt due to the judgment debtor, and, after having
195 made such demand, shall serve a true and attested copy thereof, with
196 the serving officer's actions thereon endorsed, with the financial
197 institution officer upon whom such demand is made. The serving
198 officer shall not serve more than one such execution per judgment
199 debtor at a time, including copies thereof. After service of such
200 execution upon one financial institution, the serving officer shall not
201 serve the same execution or a copy thereof upon another financial
202 institution until after receiving confirmation from the preceding
203 financial institution that the judgment debtor had insufficient funds at
204 the preceding financial institution available for collection to satisfy the
205 execution.

206 Sec. 4. Subsection (b) of section 52-367b of the general statutes is
207 repealed and the following is substituted in lieu thereof (*Effective*
208 *October 1, 2007*):

209 (b) If execution is desired against any such debt, the plaintiff
210 requesting the execution shall make application to the clerk of the
211 court. The application shall be accompanied by a fee of thirty-five
212 dollars payable to the clerk of the court for the administrative costs of

213 complying with the provisions of this section which fee may be
214 recoverable by the judgment creditor as a taxable cost of the action. In
215 a IV-D case, the request for execution shall be accompanied by an
216 affidavit signed by the serving officer attesting to an overdue support
217 amount of five hundred dollars or more which accrued after the entry
218 of an initial family support judgment. If the papers are in order, the
219 clerk shall issue such execution containing a direction that the officer
220 serving such execution shall, within seven days from the receipt by the
221 serving officer of such execution, make demand (1) upon the main
222 office of any financial institution having its main office within the
223 county of the serving officer, or (2) if such main office is not within the
224 serving officer's county and such financial institution has one or more
225 branch offices within such county, upon an employee of such a branch
226 office, such employee and branch office having been designated by the
227 financial institution in accordance with regulations adopted by the
228 Banking Commissioner, in accordance with chapter 54, for payment of
229 any such nonexempt debt due to the judgment debtor and, after
230 having made such demand, shall serve a true and attested copy of the
231 execution, together with the affidavit and exemption claim form
232 prescribed by subsection (k) of this section, with the serving officer's
233 actions endorsed thereon, with the financial institution officer upon
234 whom such demand is made. [If the officer serving such execution has
235 made an initial demand pursuant to this subsection within such seven-
236 day period, the serving officer may make additional demands upon
237 the main office of other financial institutions or employees of other
238 branch offices pursuant to subdivision (1) or (2) of this subsection,
239 provided any such additional demand is] The serving officer shall not
240 serve more than one such execution per judgment debtor at a time,
241 including copies thereof. After service of such execution upon one
242 financial institution, the serving officer shall not serve the same
243 execution or a copy thereof upon another financial institution until
244 after receiving confirmation from the preceding financial institution
245 that the judgment debtor had insufficient funds at the preceding
246 financial institution available for collection to satisfy the execution.
247 Any such service upon another financial institution shall be made not

248 later than forty-five days from the receipt by the serving officer of such
249 execution.

250 Sec. 5. (*Effective from passage*) Not later than July 1, 2007, the Law
251 Revision Commission shall commission a task force to study the
252 feasibility of permitting the service of alias tax warrants and other
253 forms of execution upon financial institutions by electronic means. The
254 task force shall be composed of representatives from the banking
255 industry, municipal governments, persons representing the interests of
256 debtors and other interested parties.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	12-162
Sec. 2	<i>October 1, 2007</i>	36a-42
Sec. 3	<i>October 1, 2007</i>	52-367a(b)
Sec. 4	<i>October 1, 2007</i>	52-367b(b)
Sec. 5	<i>from passage</i>	New section

BA *Joint Favorable C/R*

JUD

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Legislative Mgmt.	GF - Cost	Potential Minimal	Potential Minimal

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 08 \$	FY 09 \$
All Municipalities	Revenue Impact	See Below	See Below

Explanation

The bill requires the Law Revision Commission¹ to appoint a task force to study the feasibility of electronically serving alias tax warrants and other forms of executions on financial institutions. The task force must include representatives of the banking industry, city governments, debtors, and other interested parties. To the extent that any of the appointees are legislators, the Office of Legislative Management would incur minimal costs associated with mileage reimbursement of 48.5 cents per mile.

The provisions of the bill are likely to make it more difficult to administer and serve tax warrants, which may have a negative impact on a municipality's efforts to collect delinquent taxes.

The Out Years

¹ The Law Revision Commission has not met since 2003, when their budgetary funding was eliminated. Per PA 02-7 (May 9 Special Session), the Legislative Commissioners' Office may assist the Law Revision Commission in the performance of its responsibilities.

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 1151*****AN ACT CONCERNING ALIAS TAX WARRANTS AND EXECUTIONS AGAINST DEBTS DUE TO JUDGMENT DEBTORS SERVED UPON FINANCIAL INSTITUTIONS.*****SUMMARY:**

The bill prohibits tax collectors or officers from serving more than one alias tax warrant or execution for a single person or business at a time. The bill also prevents a collector from serving, or directing others to serve, more than three alias tax warrants on one financial institution in the same day without first confirming that the taxpayers have funds held with that institution and sets out the procedures for obtaining this confirmation. A financial institution is any federal or state bank, savings bank, savings and loan association, or credit union that has its main office in this state, or any similar out-of-state institution with a branch office in the state.

The bill also requires the Law Revision Commission to appoint a task force to study the feasibility of electronically serving alias tax warrants and other forms of executions on financial institutions. The commission must appoint the task force by July 1, 2007, which must include representatives of the banking industry, city governments, debtors, and other interested parties.

EFFECTIVE DATE: October 1, 2007, except for the task force provision, which is effective upon passage.

SEQUENTIAL SERVICE OF ALIAS TAX WARRANTS AND OTHER BANK EXECUTIONS

The bill specifies that a tax collector or officer cannot serve more than one alias tax warrant or execution per taxpayer or judgment

debtor (natural persons and businesses) at a time, including copies. For executions in general, the bill prevents officers from serving the same execution on another institution until they receive confirmation from the first institution that there are insufficient funds available to satisfy the judgment. Under the law, officers must serve executions relating to natural persons within seven days of receiving them. Under current law, which the bill deletes, officers can make subsequent demands on other institutions once they make this initial demand. However, the law does not specify that they have to wait for a response before making those demands. Current law does not address sequence of service when the debtor is a business.

For alias tax warrants, the bill specifies that the officer or collector can serve the same warrant on another institution only when the taxpayer has no funds available. If there is partial satisfaction of the warrant, the collector must issue a replacement warrant to collect the balance.

REQUESTS FOR INFORMATION

Content and Delivery

The bill requires a collector or officer who wants to serve more than three alias tax warrants on one financial institution in the same day to first confirm that the institution has funds for the taxpayers. The collector must do so by serving the institution with a request for information on the taxpayers in question. The bill prevents collectors and officers from serving these alias tax warrants on an institution unless they have received a response to a request for information no more than six months before the date of service.

The request must be in writing and include (1) the taxpayers' names and addresses; (2) the address or fax number to which the response can be sent; (3) if an officer submits the request by fax, the officer's name, address, judicial district, badge number, and phone number; and (4) a form notice directing the institution to report the information. The request for information can include a maximum of 250 taxpayers.

It must be delivered (1) to a financial institution's main office or, if there is no main office in the state, to its branch office designated for such purposes or (2) by fax, as long as it is sent using the number and to the department or recipient designated for such purposes.

Response to Request for Information

The bill specifically authorizes financial institutions to disclose otherwise confidential financial information in response to a request for information. When the institution receives the request it must respond either that it does not hold any of the taxpayers' money or with a list of the taxpayers' names for which it holds funds. If the request for information covers fewer than 100 taxpayers, the institution has five business days after the date it receives the request to mail, deliver, or transmit the response; if the request includes between 100 and 250 names, it has 10 days to do so. A request that is not received on a business day or that is received after 5 p.m. on a business day is considered to be received on the next business day. The bill allows the institution to choose, for each name in the request, a specific day within the five or 10-day limit on which to determine its holdings for that person. It is not responsible for reporting on the presence or absence of such holdings on any other day.

After a request for information has been served on behalf of a municipality, the bill prohibits collectors or officers from serving additional requests on behalf of the same municipality until the institution has had the opportunity to respond to the first one.

Financial Institution Liability

As under existing laws for executions in general, the bill specifies that financial institutions and their officers, directors, and employees are not liable for errors that occurred despite the existence of reasonable procedures to prevent such errors or for any good faith act or omission in relation to complying with these provisions.

COMMITTEE ACTION

Banks Committee

Joint Favorable Change of Reference

Yea 17 Nay 1 (03/06/2007)

Judiciary Committee

Joint Favorable Substitute

Yea 42 Nay 0 (04/10/2007)