



General Assembly

Amendment

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LCO No. 7788

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Offered by:

SEN. DUFF, 25th Dist.

REP. BARRY, 12th Dist.

SEN. DELUCA, 32nd Dist.

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To: Subst. Senate Bill No. 1151

File No. 575

Cal. No. 457

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

1 Strike everything after the enacting clause and insert the following
2 in lieu thereof:

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 Section 12-162 of the general statutes is repealed and the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

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

11 (b) Upon the nonpayment of any property tax when due, demand

12 having been made therefor as prescribed by law for the collection of
13 such tax, an alias tax warrant may be issued by the tax collector, which
14 may be in the following form:

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

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

44 (c) Any officer serving an alias tax warrant pursuant to this section

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

58 (d) With regard to warrants served upon financial institutions, a
59 collector of taxes or serving officer shall not serve alias tax warrants
60 relating to one taxpayer on more than one financial institution at a
61 time, including copies thereof, and after service on one financial
62 institution, shall not serve the same alias tax warrants or copies thereof
63 upon another financial institution until receiving confirmation from
64 the preceding financial institution that the taxpayer had no funds at
65 the preceding financial institution available for collection. If the
66 collector of taxes or serving officer does not receive, not later than
67 twenty days after the service of the warrant or service of a request for
68 information pursuant to subsection (e) of this section, a response from
69 the financial institution that was served indicating whether or not the
70 taxpayer has funds at the financial institution available for collection,
71 the collector of taxes or serving officer may assume that the taxpayer
72 has no funds at that financial institution available for collection and
73 may serve another financial institution in accordance with this
74 subsection.

75 (e) With regard to warrants to be served upon financial institutions,
76 whenever a tax collector expects to serve, or have an officer serve,
77 more than fifteen tax warrants upon a particular financial institution
78 on a given day, prior to such service, the tax collector or serving officer

79 shall serve upon such financial institution a request for information
80 which complies with subsection (f) of this section. No warrant may be
81 served upon a financial institution with respect to a particular taxpayer
82 unless the financial institution, in a recent response to a request for
83 information, has indicated that the financial institution is indebted to
84 such taxpayer. A tax collector or serving officer may, at the collector's
85 or officer's option, serve a request for information pursuant to this
86 subsection even if not required by this subsection. In such a case, the
87 tax collector or serving officer shall comply with the requirements of
88 this section relating to requests for information, and the financial
89 institution shall respond in the same manner as though the request for
90 information is required by this subsection. For purposes of this
91 subsection, a response is considered recent if the warrant is served not
92 later than one hundred eighty days after the date such response is
93 received.

94 (f) The request for information required by subsection (e) of this
95 section shall be served upon the financial institution in accordance
96 with subsection (g) of this section and shall include (1) the name and
97 last-known address of each taxpayer who is the subject of a warrant
98 desired to be served by the tax collector or serving officer, (2) the
99 address to which the response can be mailed or delivered or a facsimile
100 number to which the response may be transmitted, (3) in the case of a
101 request transmitted via facsimile by a serving officer, the name,
102 address, judicial district, badge number and telephone number of the
103 officer serving the request, and (4) a statement in substantially the
104 following form:

105 "To (insert name of financial institution): In accordance with Section
106 12-162 of the General Statutes of the State of Connecticut, you are
107 hereby commanded to report to (insert name of town or serving
108 officer), at the address or facsimile number specified in this request,
109 whether the financial institution is indebted to the taxpayer or
110 taxpayers listed in this request."

111 (g) The request for information required by subsection (e) of this

112 section shall be in writing and shall be (1) delivered or mailed, first
113 class postage prepaid, to an office designated and made available by
114 the financial institution pursuant to this subsection, or (2) transmitted
115 by facsimile provided the facsimile message is transmitted to a
116 facsimile number, addressed to the attention of a recipient or
117 department, and designated and made available by the financial
118 institution pursuant to this subsection. A notice received, whether by
119 facsimile or otherwise, after five o'clock p.m., eastern standard time on
120 any day, shall be deemed to have been received by the financial
121 institution on the next business day. Each financial institution with an
122 office in this state shall designate an office, facsimile number and
123 recipient or department for purposes of this subsection and shall make
124 the current designations available to collectors of taxes and serving
125 officers upon request and by mailing or delivering such designations
126 to the State Marshal Commission and the collector of taxes in each
127 municipality in which the financial institution has an office. A financial
128 institution may amend its designations, provided the amended
129 designations are mailed or delivered to the State Marshal Commission
130 and collector of taxes in each municipality in which the financial
131 institution has an office at least fifteen days before becoming effective.
132 If a financial institution fails to make such designations or fails to make
133 such designations available as required by this subsection, the tax
134 collector or serving officer may serve the request for information on
135 any office of the financial institution located in this state.

136 (h) Upon receipt of a request for information that complies with
137 subsection (f) of this section, the financial institution shall respond to
138 such request by reporting that (1) the financial institution is indebted
139 to one or more of the taxpayers listed on the request and listing the
140 name or names of those taxpayers, or (2) the financial institution is not
141 indebted to any of the taxpayers listed in the request. If the financial
142 institution is unable to make a determination with respect to a
143 particular taxpayer based on the information supplied with the
144 request, the financial institution may respond that additional
145 information will be needed to make a determination with respect to a

146 taxpayer, listing the name of the taxpayer in question, and the financial
147 institution may adjust its response pursuant to subdivision (1) or (2) of
148 this subsection to reflect such fact. The financial institution shall mail,
149 deliver or transmit the response, in the case of a request listing fewer
150 than one hundred taxpayers, not later than five business days
151 following the date the request was received, or in the case of a request
152 listing one hundred or more taxpayers, but not more than two
153 hundred fifty taxpayers, not later than ten business days following the
154 date the request was received. No request for information shall include
155 more than two hundred fifty taxpayers. Once a request for information
156 has been served by or on behalf of a particular town, an additional
157 request for information may not be served upon that same financial
158 institution by or on behalf of that same town unless the financial
159 institution has had an opportunity to respond as provided in this
160 subsection. Unless otherwise required by law, a financial institution
161 that has received a request for information shall not disclose to a
162 taxpayer listed on the request that the financial institution has received
163 a request for information relative to such taxpayer, provided nothing
164 in this section shall prevent the disclosure of information that is
165 publicly known or known to the taxpayer or as otherwise may be
166 necessary to protect the interests of the financial institution.

167 (i) No financial institution or officer, director or employee of a
168 financial institution, and no serving officer, municipality or officer,
169 employee or agent of a municipality, shall be liable to any person with
170 respect to any act done or omitted in good faith or through the
171 commission of a bona fide error that occurs despite reasonable
172 procedures maintained by the financial institution, serving officer,
173 municipality or officer, employee or agent of a municipality, to prevent
174 such errors in complying with the provisions of this section. For
175 purposes of the response required by subsection (h) of this section, the
176 financial institution may select, with respect to each taxpayer listed on
177 the request, a particular day within the time frame allotted by such
178 subsection, for determining the presence or absence of indebtedness,
179 and the financial institution shall not be responsible for reporting upon

180 the presence or absence of indebtedness on any other day.

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

183 A financial institution may not disclose to any person, except to the
184 customer or the customer's duly authorized agent, any financial
185 records relating to such customer unless the customer has authorized
186 disclosure to such person or the financial records are disclosed in
187 response to (1) a certificate signed by the Commissioner of
188 Administrative Services or the Commissioner of Social Services
189 pursuant to the provisions of section 17b-137, (2) a lawful subpoena,
190 summons, warrant or court order as provided in section 36a-43, (3)
191 interrogatories by a judgment creditor or a demand by a levying
192 officer as provided in sections 52-351b and 52-356a, (4) a certificate
193 issued by a medical provider or its attorney under subsection (b) of
194 section 17b-124, provided nothing in this subsection shall require the
195 provider or its attorney to furnish to the financial institution any
196 application for medical assistance filed pursuant to an agreement with
197 the IV-D agency under subsection (c) of section 17b-137, (5) a certificate
198 signed by the Commissioner of Veterans' Affairs pursuant to section
199 27-117, [or] (6) the consent of an elderly person or the representative of
200 such elderly person provided to a person, department, agency or
201 commission pursuant to section 17b-454, provided the financial
202 institution shall have no obligation to determine the capacity of such
203 elderly person or the representative of such elderly person to provide
204 such consent, or (7) a request for information served upon a financial
205 institution in accordance with subsection (e) of section 12-162, as
206 amended by this act.

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

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

212 not a natural person. If execution is desired against any such debt, the
213 plaintiff requesting the execution shall make application to the clerk of
214 the court. The application shall be accompanied by a fee of thirty-five
215 dollars payable to the clerk of the court for the administrative costs of
216 complying with the provisions of this section which fee may be
217 recoverable by the judgment creditor as a taxable cost of the action.
218 The clerk shall issue such execution containing a direction that the
219 officer serving such execution shall make demand (1) upon the main
220 office of any financial institution having its main office within the
221 county of the serving officer, or (2) if such main office is not within the
222 serving officer's county and such financial institution has one or more
223 branch offices within such county, upon an employee of such a branch
224 office, such employee and branch office having been designated by the
225 financial institution in accordance with regulations adopted by the
226 Banking Commissioner, in accordance with chapter 54, for the
227 payment of any debt due to the judgment debtor, and, after having
228 made such demand, shall serve a true and attested copy thereof, with
229 the serving officer's actions thereon endorsed, with the financial
230 institution officer upon whom such demand is made. The serving
231 officer shall not serve more than one financial institution execution per
232 judgment debtor at a time, including copies thereof. After service of an
233 execution on one financial institution, the serving officer shall not
234 serve the same execution or a copy thereof upon another financial
235 institution until receiving confirmation from the preceding financial
236 institution that the judgment debtor had insufficient funds at the
237 preceding financial institution available for collection to satisfy the
238 execution. If the serving officer does not receive within twenty-five
239 days of the service of the demand a response from the financial
240 institution that was served indicating whether or not the taxpayer has
241 funds at the financial institution available for collection, the serving
242 officer may assume that sufficient funds are not available for collection
243 and may proceed to serve another financial institution in accordance
244 with this subsection.

245 Sec. 4. Subsection (b) of section 52-367b of the general statutes is

246 repealed and the following is substituted in lieu thereof (*Effective*
247 *October 1, 2007*):

248 (b) If execution is desired against any such debt, the plaintiff
249 requesting the execution shall make application to the clerk of the
250 court. The application shall be accompanied by a fee of thirty-five
251 dollars payable to the clerk of the court for the administrative costs of
252 complying with the provisions of this section which fee may be
253 recoverable by the judgment creditor as a taxable cost of the action. In
254 a IV-D case, the request for execution shall be accompanied by an
255 affidavit signed by the serving officer attesting to an overdue support
256 amount of five hundred dollars or more which accrued after the entry
257 of an initial family support judgment. If the papers are in order, the
258 clerk shall issue such execution containing a direction that the officer
259 serving such execution shall, within seven days from the receipt by the
260 serving officer of such execution, make demand (1) upon the main
261 office of any financial institution having its main office within the
262 county of the serving officer, or (2) if such main office is not within the
263 serving officer's county and such financial institution has one or more
264 branch offices within such county, upon an employee of such a branch
265 office, such employee and branch office having been designated by the
266 financial institution in accordance with regulations adopted by the
267 Banking Commissioner, in accordance with chapter 54, for payment of
268 any such nonexempt debt due to the judgment debtor and, after
269 having made such demand, shall serve a true and attested copy of the
270 execution, together with the affidavit and exemption claim form
271 prescribed by subsection (k) of this section, with the serving officer's
272 actions endorsed thereon, with the financial institution officer upon
273 whom such demand is made. [If the officer serving such execution has
274 made an initial demand pursuant to this subsection within such seven-
275 day period, the serving officer may make additional demands upon
276 the main office of other financial institutions or employees of other
277 branch offices pursuant to subdivision (1) or (2) of this subsection] The
278 serving officer shall not serve more than one financial institution
279 execution per judgment debtor at a time, including copies thereof.

280 After service of an execution on one financial institution, the serving
 281 officer shall not serve the same execution or a copy thereof upon
 282 another financial institution until receiving confirmation from the
 283 preceding financial institution that the judgment debtor had
 284 insufficient funds at the preceding financial institution available for
 285 collection to satisfy the execution, provided any such additional
 286 [demand] service is made not later than forty-five days from the
 287 receipt by the serving officer of such execution."

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)