



General Assembly

Amendment

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LCO No. 7395

SB0115107395SD0

Offered by:

SEN. DUFF, 25th Dist.

REP. BARRY, 12th Dist.

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 Section 12-162 of the general statutes is repealed and the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 subsection (f) of
35 section 12-162, make demand upon the main office of any [banking]
36 financial institution indebted to such person, subject to the provisions
37 of section 52-367a or 52-367b, as if judgment for the amount due on
38 such execution had been entered, for that portion of any type of
39 deposit to the credit of or property held for such person, not exceeding
40 in total value the amount due on such execution; or you are to
41 garnishee the wages due such person from any employer, in the same
42 manner as if a wage execution therefor had been entered, in
43 accordance with section 52-361a.

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

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

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

59 (d) With regard to warrants served upon financial institutions, a
60 collector of taxes or serving officer shall not serve more than one alias
61 tax warrant per taxpayer at a time, including copies thereof, and after
62 service on one financial institution, shall not serve the same alias tax
63 warrant or copy thereof upon another financial institution until
64 receiving confirmation from the preceding financial institution that the
65 taxpayer had no funds at the preceding financial institution available
66 for collection. In the event that an alias tax warrant is returned by a
67 financial institution to the collector or serving officer partially satisfied,
68 the collector or serving officer shall not serve the alias tax warrant or
69 copy thereof on another financial institution, but a collector of taxes
70 instead may issue a replacement alias tax warrant seeking to collect the
71 balance due. If the collector of taxes or serving officer does not receive,
72 not later than twenty-five days after the service of the warrant or
73 service of a request for information pursuant to subsection (e) of this
74 section, a response from the financial institution that was served
75 indicating whether or not the taxpayer has funds at the financial
76 institution available for collection, the collector of taxes or serving
77 officer may assume that the taxpayer has no funds at that financial
78 institution available for collection and may serve another financial
79 institution in accordance with this subsection.

80 (e) With regard to warrants to be served upon financial institutions,
81 whenever a tax collector expects to serve, or have an officer serve,
82 more than fifteen tax warrants upon a particular financial institution
83 on a given day, prior to such service, the tax collector or serving officer
84 shall serve upon such financial institution a request for information
85 which complies with subsection (f) of this section. No warrant may be
86 served upon a financial institution with respect to a particular taxpayer
87 unless the financial institution, in a recent response to a request for
88 information, has indicated that the financial institution is indebted to
89 such taxpayer. For purposes of this subsection, a response is
90 considered recent if the warrant is served not later than one hundred
91 eighty days after the date such response is received.

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

103 "To (insert name of financial institution): In accordance with Section
104 12-162 of the General Statutes of the State of Connecticut, you are
105 hereby commanded to report to (insert name of town or serving
106 officer), at the address or facsimile number specified in this request,
107 whether the financial institution is indebted to the taxpayer or
108 taxpayers listed in this request."

109 (g) The request for information required by subsection (e) of this
110 section shall be in writing and shall be (1) delivered to an office
111 designated and made available by the financial institution pursuant to
112 this subsection, or (2) transmitted by facsimile provided the facsimile

113 message is transmitted to a facsimile number, addressed to the
114 attention of a recipient or department, and designated and made
115 available by the financial institution pursuant to this subsection. A
116 notice received, whether by facsimile or otherwise, after five o'clock
117 p.m., eastern standard time on any day, shall be deemed to have been
118 received by the financial institution on the next business day. Each
119 financial institution with an office in this state shall designate an office,
120 facsimile number and recipient or department for purposes of this
121 subsection and shall make those designations available to collectors of
122 taxes and serving officers upon request. If a financial institution fails to
123 make such designations or fails to make such designations available as
124 required by this subsection, the tax collector or serving officer may
125 serve the request for information on any office of the financial
126 institution located in this state.

127 (h) Upon receipt of a request for information that complies with
128 subsection (f) of this section, the financial institution shall respond to
129 such request by reporting that (1) the financial institution is indebted
130 to one or more of the taxpayers listed on the request and listing the
131 name or names of those taxpayers, or (2) the financial institution is not
132 indebted to any of the taxpayers listed in the request. The financial
133 institution shall mail, deliver or transmit the response, in the case of a
134 request listing fewer than one hundred taxpayers, not later than five
135 business days following the date the request was received, or in the
136 case of a request listing one hundred or more taxpayers, but not more
137 than two hundred fifty taxpayers, not later than ten business days
138 following the date the request was received. No request for
139 information shall include more than two hundred fifty taxpayers. Once
140 a request for information has been served by or on behalf of a
141 particular town, an additional request for information may not be
142 served upon that same financial institution by or on behalf of that
143 same town unless the financial institution has had an opportunity to
144 respond as provided in this subsection. Unless otherwise required by
145 law, a financial institution that has received a request for information
146 shall not disclose to a taxpayer listed on the request that the financial

147 institution has received a request for information relative to such
148 taxpayer, provided nothing in this section shall prevent the disclosure
149 of information that is publicly known or known to the taxpayer or as
150 otherwise may be necessary to protect the interests of the financial
151 institution.

152 (i) No financial institution or officer, director or employee of a
153 financial institution shall be liable to any person with respect to any act
154 done or omitted in good faith or through the commission of a bona
155 fide error that occurs despite reasonable procedures maintained by the
156 financial institution to prevent such errors in complying with the
157 provisions of this section. For purposes of the response required by
158 subsection (h) of this section, the financial institution may select, with
159 respect to each taxpayer listed on the request, a particular day within
160 the time frame allotted by such subsection, for determining the
161 presence or absence of indebtedness, and the financial institution shall
162 not be responsible for reporting upon the presence or absence of
163 indebtedness on any other day.

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

166 A financial institution may not disclose to any person, except to the
167 customer or the customer's duly authorized agent, any financial
168 records relating to such customer unless the customer has authorized
169 disclosure to such person or the financial records are disclosed in
170 response to (1) a certificate signed by the Commissioner of
171 Administrative Services or the Commissioner of Social Services
172 pursuant to the provisions of section 17b-137, (2) a lawful subpoena,
173 summons, warrant or court order as provided in section 36a-43, (3)
174 interrogatories by a judgment creditor or a demand by a levying
175 officer as provided in sections 52-351b and 52-356a, (4) a certificate
176 issued by a medical provider or its attorney under subsection (b) of
177 section 17b-124, provided nothing in this subsection shall require the
178 provider or its attorney to furnish to the financial institution any
179 application for medical assistance filed pursuant to an agreement with

180 the IV-D agency under subsection (c) of section 17b-137, (5) a certificate
181 signed by the Commissioner of Veterans' Affairs pursuant to section
182 27-117, [or] (6) the consent of an elderly person or the representative of
183 such elderly person provided to a person, department, agency or
184 commission pursuant to section 17b-454, provided the financial
185 institution shall have no obligation to determine the capacity of such
186 elderly person or the representative of such elderly person to provide
187 such consent, or (7) a request for information served upon a financial
188 institution in accordance with subsection (e) of section 12-162, as
189 amended by this act.

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

193 (b) Execution may be granted pursuant to this section against any
194 debts due from any financial institution to a judgment debtor which is
195 not a natural person. If execution is desired against any such debt, the
196 plaintiff requesting the execution shall make application to the clerk of
197 the court. The application shall be accompanied by a fee of thirty-five
198 dollars payable to the clerk of the court for the administrative costs of
199 complying with the provisions of this section which fee may be
200 recoverable by the judgment creditor as a taxable cost of the action.
201 The clerk shall issue such execution containing a direction that the
202 officer serving such execution shall make demand (1) upon the main
203 office of any financial institution having its main office within the
204 county of the serving officer, or (2) if such main office is not within the
205 serving officer's county and such financial institution has one or more
206 branch offices within such county, upon an employee of such a branch
207 office, such employee and branch office having been designated by the
208 financial institution in accordance with regulations adopted by the
209 Banking Commissioner, in accordance with chapter 54, for the
210 payment of any debt due to the judgment debtor, and, after having
211 made such demand, shall serve a true and attested copy thereof, with
212 the serving officer's actions thereon endorsed, with the financial
213 institution officer upon whom such demand is made. The serving

214 officer shall not serve more than one financial institution execution per
215 judgment debtor at a time, including copies thereof. After service of an
216 execution on one financial institution, the serving officer shall not
217 serve the same execution or a copy thereof upon another financial
218 institution until receiving confirmation from the preceding financial
219 institution that the judgment debtor had insufficient funds at the
220 preceding financial institution available for collection to satisfy the
221 execution. If the serving officer does not receive within twenty-five
222 days of the service of the demand a response from the financial
223 institution that was served indicating whether or not the taxpayer has
224 funds at the financial institution available for collection, the serving
225 officer may assume that sufficient funds are not available for collection
226 and may proceed to serve another financial institution in accordance
227 with this subsection.

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

231 (b) If execution is desired against any such debt, the plaintiff
232 requesting the execution shall make application to the clerk of the
233 court. The application shall be accompanied by a fee of thirty-five
234 dollars payable to the clerk of the court for the administrative costs of
235 complying with the provisions of this section which fee may be
236 recoverable by the judgment creditor as a taxable cost of the action. In
237 a IV-D case, the request for execution shall be accompanied by an
238 affidavit signed by the serving officer attesting to an overdue support
239 amount of five hundred dollars or more which accrued after the entry
240 of an initial family support judgment. If the papers are in order, the
241 clerk shall issue such execution containing a direction that the officer
242 serving such execution shall, within seven days from the receipt by the
243 serving officer of such execution, make demand (1) upon the main
244 office of any financial institution having its main office within the
245 county of the serving officer, or (2) if such main office is not within the
246 serving officer's county and such financial institution has one or more
247 branch offices within such county, upon an employee of such a branch

248 office, such employee and branch office having been designated by the
 249 financial institution in accordance with regulations adopted by the
 250 Banking Commissioner, in accordance with chapter 54, for payment of
 251 any such nonexempt debt due to the judgment debtor and, after
 252 having made such demand, shall serve a true and attested copy of the
 253 execution, together with the affidavit and exemption claim form
 254 prescribed by subsection (k) of this section, with the serving officer's
 255 actions endorsed thereon, with the financial institution officer upon
 256 whom such demand is made. [If the officer serving such execution has
 257 made an initial demand pursuant to this subsection within such seven-
 258 day period, the serving officer may make additional demands upon
 259 the main office of other financial institutions or employees of other
 260 branch offices pursuant to subdivision (1) or (2) of this subsection] The
 261 serving officer shall not serve more than one financial institution
 262 execution per judgment debtor at a time, including copies thereof.
 263 After service of an execution on one financial institution, the serving
 264 officer shall not serve the same execution or a copy thereof upon
 265 another financial institution until receiving confirmation from the
 266 preceding financial institution that the judgment debtor had
 267 insufficient funds at the preceding financial institution available for
 268 collection to satisfy the execution, provided any such additional
 269 [demand] service is made not later than forty-five days from the
 270 receipt by the serving officer of such execution."

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2007	12-162
Sec. 2	October 1, 2007	36a-42
Sec. 3	October 1, 2007	52-367a(b)
Sec. 4	October 1, 2007	52-367b(b)