

1 HOUSE BILL 218

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO TAXATION; ALLOWING AN ELECTRONIC WARRANT OF LEVY
12 FOR COLLECTION OF DELINQUENT TAXES.

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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. Section 7-1-31 NMSA 1978 (being Laws 1965,
16 Chapter 248, Section 33, as amended) is amended to read:

17 "7-1-31. SEIZURE OF PROPERTY BY LEVY FOR COLLECTION OF
18 TAXES.--

19 A. The secretary or secretary's delegate may
20 proceed to collect tax from a delinquent taxpayer by levy upon
21 all property or rights to property of [~~such person and the~~
22 ~~conversion thereof~~] the delinquent taxpayer and convert the
23 property or rights to property to money by appropriate means.

24 B. A levy is made by taking possession of property
25 pursuant to authority contained in a warrant of levy or by the

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underscored material = new
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1 service, by the secretary or secretary's delegate or any
2 sheriff or certified law enforcement employee of the department
3 of public safety, of the warrant upon the taxpayer or other
4 person in possession of property or rights to property of the
5 taxpayer, upon the taxpayer's employer or upon any person or
6 depositary owing or who will owe money to or holding funds of
7 the taxpayer, ordering [~~him~~] the taxpayer or other person to
8 reveal the extent thereof and surrender it to the secretary or
9 secretary's delegate forthwith or agree to surrender it or the
10 proceeds therefrom in the future, but in any case on the terms
11 and conditions stated in the warrant.

12 C. Upon agreement between the department and a
13 financial institution, the department may serve a warrant of
14 levy on the financial institution in electronic format pursuant
15 to the Electronic Authentication of Documents Act and the
16 Uniform Electronic Transactions Act."

17 SECTION 2. Section 7-1-32 NMSA 1978 (being Laws 1965,
18 Chapter 248, Section 34, as amended) is amended to read:

19 "7-1-32. CONTENTS OF WARRANT OF LEVY.--A warrant of levy
20 shall:

21 A. bear on its face a statement of the authority
22 for its service and compelling compliance with its terms, shall
23 be attested by the secretary by electronic signature, if
24 necessary, unless the warrant is served in electronic format
25 upon a financial institution pursuant to the Electronic

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[bracketed material] = delete

1 Authentication of Documents Act and the Uniform Electronic
2 Transactions Act and shall bear the seal of the department;

3 B. identify the taxpayer whose liability for taxes
4 is sought to be enforced, the amount thereof and the date or
5 approximate date on which the tax became due;

6 C. order the person on whom it is served to reveal
7 the amount of property or rights to property in [~~his own~~] the
8 person's possession that belong to the taxpayer and the extent
9 of [~~his own~~] the person's interest therein and to reveal the
10 amount and kind of property or rights to property of the
11 taxpayer that are, to the best of [~~his~~] the person's knowledge,
12 in the possession of others;

13 D. order the person on whom it is served to
14 surrender the property forthwith but may allow [~~him~~] the person
15 to agree in writing to surrender the property or the proceeds
16 therefrom on a certain date in the future when the taxpayer's
17 right to it would otherwise mature;

18 E. order the employer of the taxpayer to surrender
19 wages or salary of the taxpayer in excess of the amount exempt
20 under Section 7-1-36 NMSA 1978 owed by the employer to the
21 taxpayer at the time of service of the levy and [~~which~~] that
22 may become [~~owing~~] owed by the employer to the taxpayer
23 subsequent to the service of the levy until the full amount of
24 the liability stated on the levy is satisfied or until notified
25 by the secretary or the secretary's delegate;

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F. state on its face the penalties for willful failure by any person upon whom it is served to comply with its terms; and

G. state that the state of New Mexico claims a lien for the entire amount of tax asserted to be due, including applicable interest and penalties."

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.