

2013 DRAFTING REQUEST

Bill

Received: 11/1/2012 Received By: jkreye
Wanted: As time permits Same as LRB:
For: Administration-Budget By/Representing: Ley
May Contact: Drafter: jkreye
Subject: Tax, Business - crp inc, fran Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email:
Carbon copy (CC) to: joseph.kreye@legis.wisconsin.gov

Pre Topic:

DOA:.....Ley, BB0031 -

Topic:

Allow continuous levy on property to collect delinquent taxes

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 11/1/2012			_____			
/P1	jkreye 1/16/2013	jdyer 11/6/2012	rschluet 11/6/2012	_____	sbasford 11/6/2012		State
/P2		jdyer 1/16/2013	jfrantze 1/16/2013	_____	srose 1/16/2013		State

FE Sent For:

<END>

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/?	jkreye 11/1/2012	P2 1/16 jcd	Jg 11/16	Jm 11/16 Jb 11/16			
/P1		jdyer 11/6/2012	11/6/2012		sbasford 11/6/2012		State

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Topic:

Allow continous levy on property to collect delinquent taxes

Instructions:

See attached

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/? jkreya

P1 11/6/12

11/6/12

FE Sent For:

<END>

Kreye, Joseph

From: Hanaman, Cathlene
Sent: Thursday, November 01, 2012 2:23 PM
To: Kreye, Joseph
Subject: FW: Statutory Language Drafting Request

Did you do this one? I do not see BB0031 entered.

From: Emily.Ley@wisconsin.gov [mailto:Emily.Ley@wisconsin.gov]
Sent: Thursday, September 27, 2012 5:31 PM
To: Hanaman, Cathlene
Cc: Frederick, Caitlin - DOA; Ley, Emily A - DOA; Thornton, Scott - DOA
Subject: Statutory Language Drafting Request

Biennial Budget: 2013-15

DOA Tracking Code: BB0031

Topic: Allow continuous levy

SBO Team: TLGED

SBO Analyst: Ley, Emily - DOA
Phone: 608-266-7597
E-mail: Emily.Ley@wisconsin.gov

Agency Acronym: DOR

Agency Number: 566

Priority: Medium

Intent:

Amend sec. 71.91(6)(a) and (b) to allow continuous levies.

Rather than issuing a levy, waiting for a response, and then issuing another levy, the department will be able to issue one continuous levy which will remaining open until the debt is resolved or the department determines it should be released.

Attachments: False

Please send completed drafts to statlanguage@wisapps.wi.gov



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0473/P1

JK:4...

JLd

DOA:.....Ley, BB0031 - Allow continous levy on property to collect delinquent taxes

FOR 2013-2015 BUDGET - NOT READY FOR INTRODUCTION

m 11-1-12
DN

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AN ACT ...; relating to: the budget. ✓

Analysis by the Legislative Reference Bureau

TAXATION ✓

INCOME TAXATION ✓

Under current law, if a person who is liable for income taxes fails to pay the taxes within ten days from the date that the taxes become delinquent, DOR may place a levy on the person's real or personal property in order to collect the taxes. If the taxes remain unpaid, DOR may obtain the person's property and sell that property to pay the delinquent taxes. Under current law, a levy on commissions, salaries, or wages is continuous until the taxes are paid. Under this bill, all levies on property to pay delinquent taxes are continuous until the taxes are paid.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2

SECTION 1. 71.91 (6) (b) of the statutes is amended to read: ✓

3

71.91 (6) (b) *Powers of levy and distraint.* If any person who is liable for any

4

tax administered by the department neglects or refuses to pay that tax within 10

1 days after that tax becomes delinquent, the department may collect that tax and the
2 expenses of the levy by levy upon, and sale of, any property belonging to that person
3 or any property on which there is a lien as provided by sub. (4) in respect to that
4 delinquent tax. Whenever any property that has been levied upon under this section
5 is not sufficient to satisfy the claim of the department, the department may levy upon
6 any other property liable to levy of the person against whom that claim exists until
7 the taxes and expenses of the levy are fully paid. A levy ~~on commissions, wages or~~
8 salaries under this paragraph is continuous until the liability out of which it arose
9 is satisfied.

History: 1987 a. 312, 411; 1989 a. 31 ss. 2102b, 2102f; 1991 a. 39, 315; 1993 a. 205; 1995 a. 27, 224, 233, 428; 1997 a. 27, 237; 2001 a. 102, 103; 2003 a. 33, 288; 2009 a.
28.

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(END)

d-note
↓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0473/P1dn

JK: A:...

date

Jld

Emily:

DOR^v indicates in the instructions that the change made in the draft is necessary for DOR to issue one continuous levy to collect delinquent taxes rather than issue a levy, wait for a response, and then issue another levy.^v Please note that I don't believe that s. 71.91^v(6) requires that DOR issue a levy, wait for a response, then issue another levy.

Joseph T. Kreye
Senior Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0473/P1dn
JK:jld:rs

November 6, 2012

Emily:

DOR indicates in the instructions that the change made in the draft is necessary for DOR to issue one continuous levy to collect delinquent taxes rather than issue a levy, wait for a response, and then issue another levy. Please note that I don't believe that s. 71.91 (6) requires that DOR issue a levy, wait for a response, then issue another levy.

Joseph T. Kreye
Senior Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.wisconsin.gov

Kreye, Joseph

From: Ley, Emily A - DOA <Emily.Ley@wisconsin.gov>
Sent: Wednesday, January 16, 2013 11:38 AM
To: Kreye, Joseph
Subject: BB0031 Allow a continuous levy

Hi Joe,

DOR suggested the following language for BB0031 to allow for continuous and non-continuous levies. Feel free to modify as you see fit.

Amend sec 71.91 (6)(a) and (b) as follows:

(a) *Definitions*. In this subsection:

1. "Department" means the department of revenue.
2. "Levy" means all powers of distraint and seizure.
3. "Property" includes real and personal property and tangible and intangible property and rights to property but is limited to property and rights to property existing at the time of levy.
4. "Taxes" means the principal of the tax as defined in sub. (5) (k), interest, penalties and costs
5. "Continuous" means the levy is effective from the date on which the levy is first served on the 3rd party until the liability out of which the levy arose is satisfied, or until the levy is released, whichever occurs first.
6. "Non-Continuous" means the levy is effective on the date on which the levy is served on the 3rd party.

(b) *Powers of levy and distraint*. If any person who is liable for any tax administered by the department neglects or refuses to pay that tax within 10 days after that tax becomes delinquent, the department may collect that tax and the expenses of the levy by levy upon, and sale of, any property belonging to that person or any property on which there is a lien as provided by sub. (4) in respect to that delinquent tax. Whenever any property that has been levied upon under this section is not sufficient to satisfy the claim of the department, the department may levy upon any other property liable to levy of the person against whom that claim exists until the taxes and expenses of the levy are fully paid. A levy on commissions, wages or salaries is continuous until the liability out of which it arose is satisfied. A levy may be continuous or non-continuous.

Emily Ley
Executive Policy & Budget Analyst
Department of Administration
Division of Executive Budget and Finance
(608)-266-7597
emily.ley@wisconsin.gov

473



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0473/F1

JK:jld:rs

pa
RMR

DOA:.....Ley, BB0031 - Allow continuous levy on property to collect delinquent taxes

FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION

other levies may be either ^{continuous} continuous or ^{non continuous} non continuous. a non continuous levy is one ^{that} is effective only on the date or which the levy is served on a third party for collection

am 1-16-13

4
1 AN ACT ...; relating to: the budget. ✓
don't gen

Analysis by the Legislative Reference Bureau

TAXATION

INCOME TAXATION

Under current law, if a person who is liable for income taxes fails to pay the taxes within ten days from the date that the taxes become delinquent, DOR may place a levy on the person's real or personal property in order to collect the taxes. If the taxes remain unpaid, DOR may obtain the person's property and sell that property to pay the delinquent taxes. Under current law, a levy on commissions, salaries, or wages is continuous until the taxes are paid. Under this bill, all levies on property to pay delinquent taxes are continuous until the taxes are paid.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 71.91 (6) (b) of the statutes is amended to read:
3 71.91 (6) (b) Powers of levy and distraint. If any person who is liable for any
4 tax administered by the department neglects or refuses to pay that tax within 10

9

1 days after that tax becomes delinquent, the department may collect that tax and the
2 expenses of the levy by levy upon, and sale of, any property belonging to that person
3 or any property on which there is a lien as provided by sub. (4) in respect to that
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5 is not sufficient to satisfy the claim of the department, the department may levy upon
6 any other property liable to levy of the person against whom that claim exists until
7 the taxes and expenses of the levy are fully paid. A levy ~~on commissions, wages or~~
8 salaries under this paragraph is continuous until the liability out of which it arose
9 is satisfied.

10

(END)

Insert 2-9 ✓

Insert 2 - 9

1 SECTION 1. 71.91 (6) (a) 1. of the statutes is renumbered 71.91 (6) (a) 1g. ✓

2 SECTION 2. 71.91 (6) (a) 1d. of the statutes is created to read: ✓

3 71.91 (6) (a) 1d. "Continuous levy" means a levy that is in effect from the date ✓

4 on which it is served on a third party until the liability out of which the levy arose ✓

5 is satisfied or until the levy is released, whichever occurs first. ✓

6 SECTION 3. 71.91 (6) (a) 2n. of the statutes is created to read: ✓

7 71.91 (6) (a) 2n. "Noncontinuous levy" means a levy that is in effect on the date ✓

8 on which it is served on a third party. ✓

9 SECTION 4. 71.91 (6) (b) of the statutes is amended to read: ✓

10 71.91 (6) (b) *Powers of levy and distraint.* If any person who is liable for any

11 tax administered by the department neglects or refuses to pay that tax within 10

12 days after that tax becomes delinquent, the department may collect that tax and the

13 expenses of the levy by levy upon, and sale of, any property belonging to that person

14 or any property on which there is a lien as provided by sub. (4) in respect to that

15 delinquent tax. Whenever any property that has been levied upon under this section

16 is not sufficient to satisfy the claim of the department, the department may levy upon

17 any other property liable to levy of the person against whom that claim exists until

18 the taxes and expenses of the levy are fully paid. A levy imposed under this

19 paragraph may be continuous or noncontinuous, except that a levy on commissions, ✓

20 wages, or salaries is continuous until the liability out of which it arose is satisfied. ✓

(end ins)



DOA:.....Ley, BB0031 - Allow continuous levy on property to collect delinquent taxes

FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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5 **SECTION 3.** 71.91 (6) (a) 2n. of the statutes is created to read:

6 71.91 (6) (a) 2n. “Noncontinuous levy” means a levy that is in effect on the date
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18 paragraph may be continuous or noncontinuous, except that a levy on commissions,
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20

(END)