

2019 Regular Session

SENATE BILL NO. 141

BY SENATORS HENSGENS AND CLAITOR

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX/TAXATION. Provides tax collection due process an pre-dstraint hearing procedure.
(8/1/19)

AN ACT

To enact R.S. 47:1407(6) and 1571.1, relative to tax collection procedures; to establish tax collection and dstraint due process procedures; to provide for notice before commencement of dstraint; to provide for a pre-dstraint hearing with the Board of Tax Appeals; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:1407(6) and 1571.1 are hereby enacted to read as follows:

§1407. Jurisdiction of the board

The jurisdiction of the board shall extend to the following:

* * *

(6) All matters relating to collection due process hearings, as provided in R.S. 47:1571.1.

* * *

§1571.1. Dstraint procedure; collection due process hearing

A.(1) Except as provided in R.S. 47:1566, no levy or dstraint may be made upon any property or right to property of any person unless the collector has notified the person in writing of their right to a hearing pursuant to this

1 Section before any levy or distraint is made. The notice shall be required only
2 once for the taxable period to which the unpaid tax relates.

3 (2) The notice required in this Section shall be served on the person or
4 sent by registered mail, return receipt requested, to the person's last known
5 residence or business address not less than thirty days before the day of the first
6 distraint with respect to the amount of the unpaid tax for the taxable period.

7 (3) The notice required shall include the following in simple and
8 nontechnical terms:

9 (a) The amount of unpaid tax, penalty, and interest.

10 (b) The right of the person to request a hearing during the thirty-day
11 period as set forth above.

12 (c) The proposed action by the collector including a brief statement
13 which sets forth the provisions relating to distraint and sale of property, the
14 administrative appeals available to the person with respect to such distraint and
15 sale, the procedures relating to administrative appeals, the alternatives
16 available to the person which could prevent distraint on property such as offers-
17 in-compromise and installment agreements, the procedures applicable to the
18 distraint and sale of property under this Chapter, and the provisions of this
19 Chapter and procedures relating to release of liens on property.

20 B. If the person requests a hearing in writing and states the grounds for
21 the requested hearing, the hearing shall be held before the Board of Tax
22 Appeals. A person is entitled to only one hearing under this Section with respect
23 to the taxable period to which the unpaid tax specified in this Section relates.

24 C.(1) If a hearing is conducted, the distraint actions that are the subject
25 of the requested hearing shall be suspended for the period during which the
26 hearing and any related appeals are pending. The suspension shall not apply to
27 a distraint action while an appeal is pending if the underlying tax liability is not
28 at issue in the appeal and the Board of Tax Appeals determines that the
29 collector has shown good cause not to suspend the distraint action.

1 **(2) The person may raise at the hearing any relevant issue relating to the**
 2 **person's direct personal liability for the unpaid tax including any spousal**
 3 **defense, a challenge to the appropriateness of the collection actions, and any**
 4 **offers of collection alternatives, which may include the posting of a bond, the**
 5 **substitution of other assets, an installment agreement, or an**
 6 **offer-in-compromise.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Leonore Heavey.

	DIGEST	
SB 141 Original	2019 Regular Session	Hensgens

Present law authorizes collection by distraint and sale when any taxpayer fails to pay assessed tax, penalty, and interest.

Present law defines "distrain" to include the right to levy upon and seize and sell, or the levying upon or seizing and selling, of any property or rights to property of the taxpayer including goods, chattels, effects, stocks, securities, bank accounts, evidences of debt, wages, real estate, and other forms of property.

Proposed law provides a pre-distrain due process procedure.

Proposed law requires that the collector notify the person whose property is to be distrained at least 30 days before the distraint is made by service or by registered mail, return receipt requested, at the last known home or business address.

Proposed law provides that the notice sent be in plain language and include the amount owed, the right to a hearing, the proposed action by the collector, and information about the distraint process, the appeals process, and other collection alternatives available.

Proposed law provides a 30-day period during which the person may request a hearing with the Board of Tax Appeals (BTA).

Proposed law stays the distraint process during the hearing and any related appeals unless the amount of tax is not in dispute and the BTA determines there is no good cause to suspend distraint.

Proposed law provides that any relevant issue regarding the person's direct personal liability for the unpaid tax including any spousal defense, a challenge to the appropriateness of the collection actions, and any offers of collection alternatives.

Effective August 1, 2019.

(Adds R.S. 47:1407(6) and 1571.1)