

2019 Regular Session

HOUSE BILL NO. 559

BY REPRESENTATIVE DEVILLIER

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

TAX APPEALS/BOARD: Provides for a collection due process for levy or seizure by the Board of Tax Appeals

1 AN ACT

2 To enact R.S. 47:1407(6) and 1571.1, related to the Board of Tax Appeals; to provide for
3 distraint due process; to provide for notice of due process hearing; to provide for
4 distraint appeals; to provide for certain requirements; to provide for limitations; and
5 to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

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

8 §1407. Jurisdiction of the board

9 The jurisdiction of the board shall extend to the following:

10 * * *

11 (6) All matters relating to collection due process hearings as provided in R.S.
12 47:1571.1.

13 * * *

14 §1571.1. Distraint procedure; collection due process hearing

15 A.(1) Notwithstanding any provision of this Chapter to the contrary, no levy
16 may be made upon any property or person's right to property unless the secretary has
17 notified the person in writing of their right to a due process hearing pursuant to this
18 Section. Notice of the right to a hearing shall be required only once per taxable
19 period in which there is an unpaid tax.

1 (2) Notice required pursuant to this Section shall be served on the person or
2 sent by registered mail with a return receipt requested, no less than thirty days prior
3 to the first levy to the person's last known residence or business address.

4 (3) Notice required pursuant to this Section shall include in simple and
5 non-technical terms the amount of unpaid tax, notice of the right to request a due
6 process hearing pursuant to this Section, and a description of the proposed action to
7 be taken by the secretary. When applicable, the following information shall be
8 included in the notice: legal provisions and procedures related to the levy and sale
9 of property, available administrative appeals and related procedures, alternatives
10 available that may prevent a levy on property, and provisions and procedures
11 relating to release of liens on property.

12 B. If an individual wishes to have a due process hearing pursuant to this
13 Section, they must request a hearing in writing within thirty days of completed
14 personal service or the post marked date on the secretary's written notice. An
15 individual's request for a hearing must provide for reasons in which the individual
16 is entitled to a due process hearing. If a hearing pursuant to this Section is properly
17 requested in writing, includes reasons for the hearing, and is granted, the hearing
18 shall be held before the Board of Tax Appeals.

19 C. Levy actions that are the subject of a hearing requested pursuant to this
20 Section shall be suspended for the period during which the hearing and any related
21 appeals related are pending. If the underlying tax liability is not at issue in the
22 appeal and the Board of Tax Appeals determines that the secretary has shown good
23 cause not to suspend the levy action then the suspension shall not apply. A person
24 may raise relevant issues relating to the personal liability for the unpaid tax at the
25 hearing including any spousal defenses, challenges to the appropriateness of
26 collection actions, and offers of collection alternative including the posting of a
27 bond, substitution of assets, an installment agreement, or an offer-in-compromise.

28 Section 2. This Act shall become effective on July 1, 2019.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 559 Original

2019 Regular Session

DeVillier

Abstract: Provides for distraint due process hearing procedures.

Present law sets the procedure for collectors to make lists of distraint property and serve the taxpayer with a note of the sum demanded and notice of time and place where the property will be sold.

Proposed law provides that no levy may be made upon a person's property or right to property due to unpaid tax unless the Secretary of the Dept. of Revenue notifies the individual in writing of their right to a due process hearing.

Proposed law provides that the notice of the right to a hearing shall only be required once per taxable period in which there is an unpaid tax resulting in the levy on the individual's property.

Proposed law provides that the notice of the right to hearing shall be served on the person via personal service or be sent by registered mail with a return receipt requested to the person's last known residence or business address, no less than 30 days before the levy will occur.

Proposed law provides that the notice of the right to a hearing shall be written in simple non-technical terms.

Proposed law provides that the notice of the right to a hearing shall include the amount of the unpaid tax, a statement regarding the right to a due process hearing, and a description of the proposed action taken by secretary.

Proposed law provides that when applicable, the following information shall be included in the notice: legal provisions and procedures related to the levy and sale of property, available administrative appeals, alternatives available preventing a levy, and provisions and procedures related to the release of liens on property.

Proposed law provides that if hearing pursuant to this Section is properly requested in writing, includes reasons for the hearing within 30 days of personal service of the post marked date of the secretary's written notice, and is granted, the hearing shall be held before the Board of Tax Appeals.

Proposed law provides that any levy action that is the subject of a hearing shall be suspended for the period of time during which the hearing and any related appeals are pending.

Proposed law provides that the individual receiving a due process hearing may raise the following relevant issues: personal liability for the unpaid tax at the hearing including any spousal defenses, challenges to the appropriateness of collection actions, and offers of collection alternative including the posting of a bond, substitution of assets, an installment agreement, or an offer-in-compromise.

Effective July 1, 2019.

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