

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 445

Short Title: Tax Collection Procedures.

(Public)

Sponsors: Representative Brawley.

Referred to: Judiciary II.

April 1, 1991

A BILL TO BE ENTITLED

AN ACT TO ALLOW DEPARTMENT OF REVENUE EMPLOYEES TO LEVY ON
TAXPAYERS' PERSONAL PROPERTY TO COLLECT TAXES TO THE SAME
EXTENT AS A LOCAL TAX COLLECTOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-242(a) and the title of G.S. 105-242 read as rewritten:

"§ 105-242. ~~Warrant~~ **Warrants for collection of taxes; garnishment and attachment; certificate or judgment for taxes.**

(a) If any tax imposed by this Subchapter, or any other tax levied by the State and payable to the Secretary of Revenue, ~~or any portion of such tax be~~ has not been paid within 30 days after ~~the same becomes~~ it became due and payable, and after ~~the same has been~~ it was assessed, the Secretary of Revenue ~~shall issue an~~ may take either of the following actions to collect the tax:

(1) ~~The Secretary may issue a warrant or order under his~~ The Secretary's hand and official seal, directed to the sheriff of any county of the State, commanding him to levy upon and sell the real and personal property of the taxpayer found within ~~his~~ the county for the payment of the ~~amount thereof, with the added penalties, tax, including penalties and additional taxes, interest, and the cost of executing the same, warrant~~ and to return to the Secretary of Revenue the money collected by virtue thereof collected, within a time to be specified in the warrant, therein specified, not less than 60 days from the date of the order. The said warrant; the sheriff shall, thereupon, upon receipt of the warrant shall proceed upon the same in all respects with like effect and in the same

1 manner prescribed by law in respect to executions issued against
2 property upon judgments of a court of record, and shall be entitled to
3 the same fees for his services in executing the ~~order~~, warrant, to be
4 collected in the same manner.

5 (2) The Secretary may issue a warrant or order under the Secretary's hand
6 and seal to any revenue officer or other employee of the Department of
7 Revenue charged with the duty to collect taxes, commanding the
8 officer or employee to levy upon and sell the taxpayer's personal
9 property, including that described in G.S. 105-366(d), found within the
10 State for the payment of the tax, including penalties and interest.
11 Except as otherwise provided in this subdivision, the levy upon the
12 sale of personal property shall be governed by the laws regulating levy
13 and sale under execution. The person to whom the warrant is directed
14 shall proceed to levy upon and sell the personal property subject to
15 levy in the same manner and with the same powers and authority
16 normally exercised by sheriffs in levying upon and selling personal
17 property under execution, except that the property may be sold in
18 Wake County or in the county in which it was seized, in the discretion
19 of the Secretary. In addition to the notice of sale required by the laws
20 governing sale of property levied upon under execution, the Secretary
21 may advertise the sale in any reasonable manner and for any
22 reasonable period of time to produce an adequate bid for the property.
23 Levy and sale fees, plus actual advertising costs, shall be added to and
24 collected in the same manner as taxes."

25 Sec. 2. This act is effective upon ratification.