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AB-1389 Notice of levy. (2023-2024)

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Assembly Bill No. 1389

CHAPTER 839

An act to amend Section 1755 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor October 13, 2023. Filed with Secretary of State October 13, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1389, Wendy Carrillo. Notice of levy.

Existing law requires the Employment Development Department to implement and administer the unemployment insurance program in this state, and provides for the payment of unemployment compensation benefits to eligible individuals who are unemployed through no fault of their own. Existing law provides for penalties and interest if any person or employing unit is delinquent in the payment of any contributions for unemployment insurance, and authorizes the Director of Employment Development to enforce any state tax liens against a delinquent account receivable or account held by a financial institution if proper notice is given. Existing law requires the person receiving a notice of levy, if the levy is made on an account receivable, to remit any credits or personal property owing to the delinquent person or employing unit to the department within 5 days of receipt of the notice of levy. Existing law also requires a person that comes into possession of credits or property owing to a delinquent person or employing unit within one year of receipt of the notice of an accounts receivable levy to remit the credits or property to the department within 5 days of coming into possession of the credits or property. Existing law requires a financial institution receiving a notice of levy to remit the property to the department within 5 days of receiving the notice of levy, but does not require the financial institution to remit property that is not in their possession at the time the notice of levy is served.

This bill would instead require the person in possession of credits or property owing to the delinquent person or employing unit to remit the credits or property to the department after 10 but no later than 14 business days after service of the levy. The bill would also require a person coming into possession of credits or property owing to the delinquent person or employing unit within one year of receipt of the notice of levy to remit the credits or property to the department after 10 but no later than 14 days after coming into possession of the credits or property. The bill would also make clarifying changes to these provisions.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1755 of the Unemployment Insurance Code is amended to read:

1755. (a) If any person or employing unit is delinquent in the payment of any contributions, penalties, or interest provided for in this division, the director may, not later than three years after the payment became delinquent or within 10 years after the last entry of a judgment under Article 5 (commencing with Section 1815) or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, collect the delinquency or enforce any liens by levy served either

personally or by first-class mail, to any person having in their possession or under their control any credits or personal property belonging to the delinquent person or employing unit, or owing any debts to the person or employing unit at the time of the receipt of the notice of levy.

(b) Any person other than a financial institution upon whom a notice of accounts receivable levy has been served having in their possession or under their control any credits or personal property belonging to the delinquent person or employing unit or owing any debts to the person or employing unit at the time of the receipt of the levy or coming into their possession or under their control for the period of one year from the time of receipt of the notice of accounts receivable levy, shall hold and remit the credits or personal property to the director or pay to the director the amount of any debt owing the delinquent employer after 10 but no later than 14 business days after service of the levy, and shall hold and remit the credits or personal property, or the amount of any debt owing to the delinquent employer coming into their possession or under their control within one year of receipt of the notice of accounts receivable levy after 10 but no later than 14 business days after the date of coming into possession or control of the credits or personal property, or the amount of any debt owing to the delinquent employer is incurred. Any person in possession of any credits or personal property or owing any debts to the delinquent person or employing unit who surrenders the credits or personal property or pays the debts owing the delinquent person or employing unit shall be discharged from any obligation or liability to the delinquent person or employing unit with respect to the credits or personal property surrendered or debts paid to the director.

(c) If the levy is made on a deposit or credits or personal property in the possession or under the control of a financial institution, the notice of levy shall be served on that financial institution at the same location as legal process is required to be served pursuant to Section 684.115 of the Code of Civil Procedure, and the levy will apply to all credits or personal property in the deposit account only at the time that notice of levy is received by the financial institution. The levy of a financial institution is treated as a single event and requires the financial institution to hold and remit funds after 10 but no later than 14 business days after receipt of the notice of levy.

(d) For purposes of this section:

- (1) "Business day" means any day other than a Saturday, Sunday, legal holiday as recognized by the Internal Revenue Service, statewide legal holiday as recognized by the State of California pursuant to Section 6700 of the Government Code, or a day in which the department is closed pursuant to Section 12b of the Code of Civil Procedure.
- (2) "Deposit account" has the same meaning as in paragraph (29) of subdivision (a) of Section 9102 of the Commercial Code.
- (3) "Financial institution" has the same meaning as in Section 481.113 of the Code of Civil Procedure.
- (4) "Legal process" has the same meaning as in Section 482.070 of the Code of Civil Procedure.