

## SB0031S01 compared with SB0031

~~{deleted text}~~ shows text that was in SB0031 but was deleted in SB0031S01.

inserted text shows text that was not in SB0031 but was inserted into SB0031S01.

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Senator Wayne A. Harper proposes the following substitute bill:

### TAX COMMISSION LEVY PROCESS

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor:** Wayne A. Harper

House Sponsor: ~~{\_\_\_\_\_}~~ Mike K. McKell

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#### LONG TITLE

~~{Committee Note:~~

~~—The Revenue and Taxation Interim Committee recommended this bill.~~

~~}General Description:~~

This bill enacts a State Tax Commission levy process using a depository institution data match system to collect certain amounts owed by a delinquent taxpayer.

#### Highlighted Provisions:

This bill:

- ▶ defines terms and modifies definitions;
- ▶ enacts the Depository Institution Data Match System and Levy Act;
- ▶ provides procedures and requirements for the depository institution data match system and levy process, including:
  - requiring the State Tax Commission to develop and operate the database in

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coordination with depository institutions;

- ~~{requiring}~~ addressing agreements between the State Tax Commission ~~{to enter into agreements with~~ and depository institutions;
  - requiring a depository institution to provide the State Tax Commission with certain information;
  - establishing a levy process for collecting a liability from a delinquent taxpayer using the depository institution data match system;
  - addressing duties of a depository institution and the State Tax Commission in relation to the depository institution data match system and levy process;
  - addressing ~~{a reimbursement}~~ payments by the State Tax Commission ~~{pays}~~ to a depository institution;
  - addressing an amount levied or released in error;
  - addressing the confidentiality and disclosure of information;
  - addressing limits on a depository institution's liability; and
  - granting rulemaking authority to the State Tax Commission; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill provides a special effective date.

### Utah Code Sections Affected:

AMENDS:

**7-1-1004**, as last amended by Laws of Utah 2009, Chapter 381

**59-1-1402**, as last amended by Laws of Utah 2012, Chapter 357

ENACTS:

**59-1-1701**, Utah Code Annotated 1953

**59-1-1702**, Utah Code Annotated 1953

**59-1-1703**, Utah Code Annotated 1953

**59-1-1704**, Utah Code Annotated 1953

**59-1-1705**, Utah Code Annotated 1953

**59-1-1706**, Utah Code Annotated 1953

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59-1-1707, Utah Code Annotated 1953

59-1-1708, Utah Code Annotated 1953

59-1-1709, Utah Code Annotated 1953

59-1-1710, Utah Code Annotated 1953

59-1-1711, Utah Code Annotated 1953

59-1-1712, Utah Code Annotated 1953

59-1-1713, Utah Code Annotated 1953

59-1-1714, Utah Code Annotated 1953

59-1-1715, Utah Code Annotated 1953

59-1-1716, Utah Code Annotated 1953

59-1-1717, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section 7-1-1004 is amended to read:

**7-1-1004. Reimbursement of financial institution for costs of obtaining information.**

(1) ~~[A]~~ Except as provided in Subsection (2), a financial institution is entitled to reimbursement by a governmental entity seeking information, for costs reasonably and directly incurred in searching for, reproducing, or transporting a record required to be produced if the financial institution produces the record:

(a) pursuant to written permission by all account holders of the account referenced in the record in accordance with:

(i) Subsection 7-1-1001(2)(a); or

(ii) Subsection 7-1-1006(2)(b)(iii);

(b) in compliance with an order obtained under this part; or

(c) in compliance with an order of a court or administrative body of competent jurisdiction.

(2) A depository institution is not allowed reimbursement under this section by the State Tax Commission for information the depository institution provides or action the depository institution takes in accordance with Title 59, Chapter 1, Part 17, Depository Institution Data Match System and Levy Act.

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~~(2)~~ (3) The commissioner shall by rule establish the rates and conditions under which a governmental entity shall reimburse a financial institution.

Section 2. Section **59-1-1402** is amended to read:

### **59-1-1402. Definitions.**

As used in this part:

(1) "Administrative cost" means a fee imposed to cover:

(a) the cost of filing;

(b) the cost of administering a garnishment; ~~or~~

(c) the amount the commission pays to a depository institution in accordance with ~~Section 59-1-1711~~ Title 59, Chapter 1, Part 17, Depository Institution Data Match System and Levy Act; or

~~(e)~~ (d) a cost similar to ~~Subsection (1)(a) or (b)~~ Subsections (1)(a) through (c) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) "Books and records" means the following made available in printed or electronic format:

(a) an account;

(b) a book;

(c) an invoice;

(d) a memorandum;

(e) a paper;

(f) a record; or

(g) an item similar to Subsections (2)(a) through (f) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Deficiency" means:

(a) the amount by which a tax, fee, or charge exceeds the difference between:

(i) the sum of:

(A) the amount shown as the tax, fee, or charge by a person on the person's return; and

(B) any amount previously assessed, or collected without assessment, as a deficiency;

and

(ii) any amount previously abated, credited, refunded, or otherwise repaid with respect

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to that tax, fee, or charge; or

(b) if a person does not show an amount as a tax, fee, or charge on the person's return, or if a person does not make a return, the amount by which the tax, fee, or charge exceeds:

(i) the amount previously assessed, or collected without assessment, as a deficiency;  
and

(ii) any amount previously abated, credited, refunded, or otherwise repaid with respect to that tax, fee, or charge.

(4) "Garnishment" means any legal or equitable procedure through which one or more of the following are required to be withheld for payment of an amount a person owes:

(a) an asset of the person held by another person; or

(b) the earnings of the person.

(5) "Liability" means the following that a person is required to remit to the commission:

(a) a tax, fee, or charge;

(b) an addition to a tax, fee, or charge;

(c) an administrative cost;

(d) interest that accrues in accordance with Section 59-1-402; or

(e) a penalty that accrues in accordance with Section 59-1-401.

(6) (a) Subject to Subsection (6)(b), "mathematical error" is as defined in Section 6213(g)(2), Internal Revenue Code.

(b) The reference to Section 6213(g)(2), Internal Revenue Code, in Subsection (6)(a) means:

(i) the reference to Section 6213(g)(2), Internal Revenue Code, in effect for the taxable year; or

(ii) a corresponding or comparable provision of the Internal Revenue Code as amended, redesignated, or reenacted.

(7) (a) Except as provided in Subsection (7)(b), "tax, fee, or charge" means:

(i) a tax, fee, or charge the commission administers under:

(A) this title;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

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- (D) Section 19-6-410.5;
- (E) Section 19-6-714;
- (F) Section 19-6-805;
- (G) Section 32B-2-304;
- (H) Section 34A-2-202;
- (I) Section 40-6-14;
- (J) Section 69-2-5;
- (K) Section 69-2-5.5; or
- (L) Section 69-2-5.6; or
- (ii) another amount that by statute is administered by the commission.
- (b) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:
  - (i) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;
  - (ii) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
  - (iii) Chapter 2, Property Tax Act;
  - (iv) Chapter 3, Tax Equivalent Property Act;
  - (v) Chapter 4, Privilege Tax; or
  - (vi) Chapter 13, Part 5, Interstate Agreements.
- (8) "Transferee" means:
  - (a) a devisee;
  - (b) a distributee;
  - (c) a donee;
  - (d) an heir;
  - (e) a legatee; or
  - (f) a person similar to Subsections (8)(a) through (e) as determined by the commission

by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 3. Section **59-1-1701** is enacted to read:

### **Part 17. Depository Institution Data Match System and Levy Act**

#### **59-1-1701. Title.**

This part is known as the "Depository Institution Data Match System and Levy Act."

Section 4. Section **59-1-1702** is enacted to read:

#### **59-1-1702. Definitions.**

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As used in this part:

(1) "Agreement" means an agreement described in Section 59-1-1704 between a depository institution and the commission.

(~~1~~2) "Delinquent taxpayer" means a person against whom the commission is considered to have obtained a judgment for a liability under Section 59-1-1414.

(~~2~~3) "Depository institution" is a depository institution described in Section 7-1-103 that holds or receives deposits, savings, or share accounts.

(~~3~~4) "Depository institution data match system" means the database ~~that~~ the commission develops, maintains, and operates in accordance with Section 59-1-1703.

(~~4~~5) "Identifying information" means ~~the following that a depository institution provides to the commission in relation to an account holder under this part~~:

(a) the name of the account holder;

(b) the social security number of the account holder; or

(c) other identifying information.

(~~5~~6) "Liability" means the same as that term is defined in Section 59-1-1402.

(~~6~~7) "Satisfy a liability" means to pay in full a liability that is the subject of a levy under this part.

Section 5. Section **59-1-1703** is enacted to read:

**59-1-1703. Depository institution data match system**~~{-- Agreements between commission and depository institutions}~~.

(1) The commission shall develop, maintain, and operate a database as provided in this section ~~that~~.

(2) ~~The database described in Subsection (1):~~

(a) ~~uses~~ shall use automated data exchanges;

(b) ~~identifies~~ shall identify a delinquent taxpayer by identifying information;

(c) may be accessed only by the commission or a depository institution;

(d) ~~is~~ shall be used to determine whether a delinquent taxpayer identified in the database has the same identifying information as that of an account holder at a depository institution; and

(e) ~~is~~ shall be updated by the commission on at least a quarterly basis.

~~{ (2) The commission shall enter into agreements with depository institutions doing~~

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business in the state to:

- ~~\_\_\_\_\_ (a) coordinate the development and operation of the depository institution data match system;~~
- ~~\_\_\_\_\_ (b) participate in using the depository institution data match system as provided in this part;~~
- ~~\_\_\_\_\_ (c) address reimbursement to the depository institution in accordance with Section 59-1-1711 for complying with the requirements of this part; and~~
- ~~\_\_\_\_\_ (d) provide for the security and confidentiality of the data contained in the depository institution data match system.~~

‡ Section 6. Section **59-1-1704** is enacted to read:

**59-1-1704. Depository institution Election to enter into an agreement.**

(1) A depository institution that ~~enters into an agreement with the commission in accordance with Section 59-1-1703 shall access~~ does business in this state may elect to use the depository institution data match system ~~on or before the 15th day of each calendar quarter~~ to respond to ~~determine whether~~ judicial process against a delinquent taxpayer ~~identified~~.

(2) A depository institution may not make an election under Subsection (1) unless the commission approves the election.

(3) A depository institution that elects to use the depository institution data match system shall enter into an agreement with the commission.

(4) An agreement under this section shall:

- (a) address the operation of the depository institution data match system;
- (b) require the depository institution to comply with this part;
- (c) address reimbursement to the depository institution for complying with this part;

and

(d) provide for the security and confidentiality of data contained in the depository institution data match system ~~has the same identifying information as that of an account holder at the depository institution.~~

~~\_\_\_\_\_ (2) If~~.

(5) An election under this section does not preclude the commission from requiring a depository institution ~~determines that~~ to respond to judicial process against a delinquent

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taxpayer ~~identified in~~:

(a) by means other than the depository institution data match system; and

(b) as provided by law.

Section 7. Section 59-1-1705 is enacted to read:

**59-1-1705. Requirement to access depository institution data match system.**

(1) A depository institution that enters into an agreement with the commission in accordance with Section 59-1-1704 shall access the depository institution data match system on or before the 15th day of each calendar quarter.

(2) A depository institution that accesses the depository institution data match system shall determine whether a delinquent taxpayer identified in the depository institution data match system has the same identifying information as that of an account holder at the depository institution ~~is~~.

Section 8. Section 59-1-1706 is enacted to read:

**59-1-1706. Requirement for a depository institution to provide information to the commission.**

A depository institution that determines under Section 59-1-1705 that a delinquent taxpayer identified in the depository institution data match system has the same identifying information as that of an account holder at the depository institution shall provide the commission, within ~~three business~~ five days after the day on which the depository institution accesses the depository institution data match system ~~, provide the commission with the following information the depository institution has in relation to the account holder~~:

~~(a)~~1) the name of the account holder;

~~(b)~~2) the address of the account holder;

~~(c)~~3) the account number of the account holder;

~~(d)~~4) the account balance of the account holder ~~as of~~ on the ~~date~~ day that the depository institution provides the commission the information **required by this section**;

~~(e)~~5) the type of account of the account holder;

~~(f)~~6) the social security number of the account holder;

~~(g)~~7) other information that identifies the account holder; and

~~(h)~~8) the name of, and contact information for, other account holders that have access to the account.

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Section ~~{7}9~~. Section ~~{59-1-1705}~~59-1-1707 is enacted to read:

~~{59-1-1705}~~59-1-1707. **Commission requirement to provide notice of levy to depository institution -- Duration of levy.**

(1) The commission shall provide, within three business days after a depository institution provides the commission information described in ~~{Subsection 59-1-1704(2)}~~Section 59-1-1706, a notice of levy to the depository institution by electronic means:

(a) stating that the commission levies an amount equal to the liability of a delinquent taxpayer that is an account holder at the depository institution; and

(b) identifying the account subject to levy.

(2) A levy described in Subsection (1) is valid until the earlier of:

(a) the ~~{date}~~day on which the commission releases the levy;

(b) the ~~{date}~~day on which the delinquent taxpayer satisfies the liability; or

(c) the ~~{date}~~day on which the depository institution ~~{makes the final subsequent release}~~releases, in accordance with Section ~~{59-1-1709 of}~~59-1-1711, the amounts deposited into the account of the delinquent taxpayer.

(3) The commission shall provide notice to a depository institution by electronic means:

(a) if the commission releases a levy, no later than one business day after the ~~{date}~~day on which the commission releases the levy; or

(b) if a delinquent taxpayer satisfies the liability, no later than one business day after the ~~{date}~~day on which the delinquent taxpayer satisfies the liability.

Section ~~{8}10~~. Section ~~{59-1-1706}~~59-1-1708 is enacted to read:

~~{59-1-1706}~~59-1-1708. **Depository institution requirement to secure amount subject to levy in account holder's account.**

(1) Subject to Subsection (~~{3}2~~), ~~{no}~~before the later ~~{than one}~~of two business ~~{day}~~days after the ~~{date}~~day on which, or 48 hours after the time at which, a depository institution receives a notice of levy described in Section ~~{59-1-1705}~~59-1-1707 from the commission, the depository institution shall secure the amount subject to levy in a delinquent taxpayer's account by prohibiting:

(a) any person that has access to the delinquent taxpayer's account from accessing the

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amount; or

(b) the transfer or other disposition of the amount.

~~{ (2) Subject to Subsection (3), if, on the date a depository institution secures an amount under Subsection (1), the balance of the delinquent taxpayer's account is less than the amount subject to levy stated on the notice of levy described in Section 59-1-1705, the depository institution shall secure deposits into the account holder's account:~~

~~—— (a) made after the date the depository institution secures the amount under Subsection (1);~~

~~—— (b) in an amount that in total does not exceed the amount of the liability stated on the notice of levy described in Section 59-1-1705; and~~

~~—— (c) until the earlier of:~~

~~—— (i) the date the commission provides notice to the depository institution in accordance with Section 59-1-1705 that the commission has released the levy;~~

~~—— (ii) the date the commission provides notice to the depository institution in accordance with Section 59-1-1705 that the delinquent taxpayer has satisfied the liability; or~~

~~—— (iii) the date the depository institution makes the final subsequent release in accordance with Section 59-1-1709 of amounts deposited into the account of the delinquent taxpayer.~~

~~‡ (3) For purposes of Subsections (1) and (2), a depository institution shall secure an amount subject to levy regardless of whether a person other than the delinquent taxpayer has access to the account or is an account holder.~~

Section ~~{9}~~11. Section ~~{59-1-1707}~~59-1-1709 is enacted to read:

~~{59-1-1707}~~59-1-1709. **Commission to send notice to delinquent taxpayer.**

(1) The commission shall, within three business days after the ~~{date}~~ day on which the commission provides a notice of levy described in Section ~~{59-1-1705}~~ 59-1-1707 to a depository institution, notify a delinquent taxpayer that the commission has issued the notice of levy to the depository institution.

(2) The notice described in Subsection (1) shall:

(a) state the amount subject to levy as stated in the notice of levy described in Section ~~{59-1-1705}~~ 59-1-1707;

(b) notify the delinquent taxpayer that the depository institution is required to secure the amount subject to levy in accordance with Section ~~{59-1-1706}~~ 59-1-1708;

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(c) identify each account subject to levy at the depository institution; and

(d) describe the actions a delinquent taxpayer may take to:

(i) satisfy the liability; or

(ii) resolve an issue as to whether the commission has the authority to receive from a depository institution the amount subject to levy at the depository institution.

Section ~~{10}~~12. Section ~~{59-1-1708}~~59-1-1710 is enacted to read:

~~{59-1-1708}~~59-1-1710. **Commission to determine portion of an amount subject to levy**~~{ that the commission may receive from a depository institution}~~ -- **Process for resolution of dispute -- Extension of certain time periods -- District court action -- Rulemaking authority.**

(1) In accordance with this section, the commission, ~~in consultation with the depository institution,~~ shall determine the portion of the amount subject to a levy under this part~~{ that the commission may receive from a depository institution}~~.

(2) The time period for making the determination required by Subsection (1):

(a) begins on the ~~{date}~~day on which the commission provides a notice of levy described in Section ~~{59-1-1705}~~59-1-1707 to a depository institution; and

(b) ends on the first business day after a 21-day period beginning on the ~~{date}~~day described in Subsection (2)(a).

(3) The commission shall provide notice to a depository institution, no later than the last day of the time period described in Subsection (2), of the portion of the amount subject to a levy under this part~~{ that the commission may receive from the depository institution}~~.

(4) The portion of an amount subject to levy under this part that the commission may receive from a depository institution may not exceed the lesser of:

(a) the amount of the liability that is subject to the levy;

(b) the amount the commission would have been able to receive had the commission obtained a writ of garnishment; or

(c) the balance of the delinquent taxpayer's account that a depository institution has secured or will secure in accordance with Section ~~{59-1-1706}~~59-1-1708 minus any amounts that the depository institution holds as a security interest.

(5) As part of the determination required by Subsection (1), the commission shall allow a delinquent taxpayer to communicate with and provide information to the commission.

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(6) The commission shall order a conference between the commission and the delinquent taxpayer in accordance with Section 63G-4-102 if:

(a) the commission finds that there is a dispute as to an issue related to the determination required by Subsection (1); or

(b) a delinquent taxpayer requests the conference to address a dispute as to an issue related to the determination required by Subsection (1).

(7) The time period beginning on the ~~{date}~~ day on which the commission orders a conference in accordance with Subsection (6) and ending on the ~~{date}~~ day on which the conference adjourns may not be included in calculating a time period:

(a) during which a levy is valid;

(b) during which a depository institution is required to secure an amount in accordance with Section ~~{59-1-1706}~~ 59-1-1708;

(c) for making the determination required by Subsection (1); or

(d) for requiring a depository institution to release a portion of an amount to the commission in accordance with Section ~~{59-1-1709}~~ 59-1-1711.

(8) If a conference described in Subsection (6) does not result in the resolution of the issues related to the determination required by Subsection (1), a delinquent taxpayer may file an action in district court:

(a) within 14 days after the ~~{date}~~ day on which a conference described in Subsection (6) adjourns; and

(b) in the district court located in the county of residence or principal place of business of the delinquent taxpayer.

(9) (a) Subject to Subsection (9)(b), the time period beginning on the ~~{date}~~ day on which a delinquent taxpayer files an action in accordance with Subsection (8) and ending on the ~~{date}~~ day on which the action becomes final may not be included in calculating a time period:

(i) during which a levy is valid;

(ii) during which a depository institution is required to secure an amount in accordance with Section ~~{59-1-1706}~~ 59-1-1708;

(iii) for making the determination required by Subsection (1); or

(iv) for requiring a depository institution to release a portion of an amount to the

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commission in accordance with Section ~~{59-1-1709}~~59-1-1711.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for determining when an action under this section becomes final.

Section ~~{11}~~13. Section ~~{59-1-1709}~~59-1-1711 is enacted to read:

~~{59-1-1709}~~59-1-1711. **Depository institution to release portion of amount subject to levy.**

(1) Subject to the other provisions of this section, a depository institution shall release the portion of the amount subject to a levy under this part that the commission ~~{determines the commission}~~ may receive in accordance with Section ~~{59-1-1708}~~59-1-1710 from the depository institution.

(2) On the first business day after the ~~{date}~~day on which the commission provides the notice described in Subsection ~~{59-1-1708}~~59-1-1710(3) to the depository institution, the depository institution shall ~~{make an initial}~~ release ~~{of}~~ the lesser of the following:

(a) the portion of the amount the commission ~~{determines the commission}~~ may receive in accordance with Section ~~{59-1-1708}~~59-1-1710 from the depository institution; or

(b) the balance of the delinquent taxpayer's account ~~{as of}~~on the first business day after the ~~{date}~~day on which the commission provides the notice described in Subsection ~~{59-1-1708}~~59-1-1710(3) to the depository institution~~;~~

~~—— (3) (a) Subject to Subsections (3)(b) and (c), if, as of the first business day after the date the commission provides the notice described in Subsection 59-1-1708(3) to a depository institution, the balance of the delinquent taxpayer's account is less than the portion of the amount the commission determines the commission may receive in accordance with Section 59-1-1708 from the depository institution, the depository institution shall make one or more subsequent releases to the commission of deposits made into the delinquent taxpayer's account:~~

~~—— (i) after the first business day after the date the commission provides the notice described in Subsection 59-1-1708(3) to the depository institution; and~~

~~—— (ii) in an amount not to exceed the portion of the amount the commission determines the commission may receive in accordance with Section 59-1-1708 from the depository institution.~~

~~—— (b) A depository institution required by Subsection (3)(a) to make a subsequent release of a deposit shall make the release no later than seven days after the date the deposit is made~~

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into the delinquent taxpayer's account.

~~— (c) A depository institution may not make a subsequent release described in Subsection (3)(a) of a deposit to the commission if the deposit is made:~~

~~— (i) after the date the commission provides notice} minus:~~

~~— (i) the \$10 reimbursement to the depository institution described in ~~{accordance with}~~ Section ~~{59-1-1705 that the commission has released the levy;~~~~

~~— (ii) after the date the commission provides notice to} 59-1-1713; and~~

~~— (ii) the fees that an account holder agreed to pay the depository institution ~~{in accordance with Section 59-1-1705 that the delinquent taxpayer has satisfied the liability; or~~~~

~~— (iii) more than 60 days after the date the commission provides the notice of levy described in Section 59-1-1705 to the depository institution:~~

~~— Section 12} to process a writ of garnishment in a deposit agreement.~~

Section 14. Section ~~{59-1-1710};~~ 59-1-1712 is enacted to read:

59-1-1710; 59-1-1712. **Limitations on commission authority to levy.**

(1) During the time period that a levy the commission imposes on the account of a delinquent taxpayer is valid, the commission may not impose another levy on that account.

(2) The commission may impose a levy in accordance with the procedures and requirements of this part on an account subject to a previous levy under this part if that previous levy is no longer valid.

Section ~~{13}~~ 15. Section ~~{59-1-1711};~~ 59-1-1713 is enacted to read:

59-1-1711; 59-1-1713. **Commission ~~{requirement}~~ payment to ~~{pay a reimbursement to a}~~ depository institution ~~{.~~**

~~— (1) Subject} to secure amount subject to ~~{Subsection (2),}~~ levy.~~

In addition to any compensation that the commission ~~{shall, in accordance with the agreement required by Section 59-1-1703, pay a reasonable reimbursement to a depository institution:~~

~~— (a) as determined by the commission;~~

~~— (b) to comply with the requirements of this part; and~~

~~— (c) that does not exceed the costs a} pays to the depository institution ~~{incurs to comply with this part.~~~~

~~— (2) If a} in accordance with an agreement, the commission shall pay the depository~~

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institution \$10 if the depository institution secures an amount subject to levy in accordance with; under Section ~~{59-1-1706, the commission shall pay the depository institution \$10 to secure the amount}~~ 59-1-1708.

Section ~~{14}~~ 16. Section ~~{59-1-1712}~~ 59-1-1714 is enacted to read:

~~{59-1-1712}~~59-1-1714. Amount levied or released in error -- Rulemaking authority.

(1) If the commission levies an amount in error, the commission shall:

(a) pay the cost of a depository institution charge incurred as a result of the levy; or

(b) if a person other than the commission pays the depository institution charge,

reimburse the person for the depository institution charge incurred as a result of the levy.

(2) If a depository institution releases an amount in an account holder's account to the commission in error, the commission shall return the amount to the depository institution by electronic means for deposit into the account holder's account.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing:

(a) what constitutes levying or releasing an amount in error; and

(b) the depository institution charges the commission shall pay.

Section ~~{15}~~ 17. Section ~~{59-1-1713}~~ 59-1-1715 is enacted to read:

~~{59-1-1713}~~59-1-1715. Limits on a depository institution's authority to disclose or provide notice -- Depository institution authority to provide information.

(1) ~~{Except}~~Before a depository institution secures an amount subject to levy in a delinquent taxpayer's account in accordance with Section 59-1-1708 and except as provided in Subsection (2), a depository institution may not disclose or provide notice to an account holder at the depository institution that the depository institution:

(a) provided information to the commission or the commission provided information to the depository institution in relation to the account holder or the account holder's account in accordance with this part; or

(b) took an action in relation to the account holder or the account holder's account in accordance with this part.

(2) A depository institution may provide information to an account holder describing the depository institution's duties under this part if the information the depository institution

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provides does not identify that the depository institution:

(a) provides or has provided information to the commission in relation to a particular account holder or account holder's account in accordance with this part; or

(b) takes or has taken an action in relation to a particular account holder or account holder's account in accordance with this part.

Section ~~{16}~~18. Section ~~{59-1-1714}~~59-1-1716 is enacted to read:

~~{59-1-1714}~~59-1-1716. **Limits on depository institution liability.**

A depository institution is not liable to a person for the following if the depository institution acts in good faith:

(1) providing or failing to provide information; or

(2) taking or failing to take an action.

Section ~~{17}~~19. Section ~~{59-1-1715}~~59-1-1717 is enacted to read:

~~{59-1-1715}~~59-1-1717. **Confidentiality of information.**

Except for the exchange of information between the commission and a depository institution that is necessary to meet the requirements of this part, information the commission obtains from a depository institution is subject to Section 59-1-403 as if the information had been gained from a return filed with the commission.

Section ~~{18}~~20. **Effective date.**

This bill takes effect on January 1, 2017.

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**Legislative Review Note**

**Office of Legislative Research and General Counsel†**