

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 462

Short Title: Revenue Employees May Serve Papers.

(Public)

Sponsors: Representative Miller.

Referred to: Judiciary II.

April 1, 1991

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE DEPARTMENT OF REVENUE EMPLOYEES TO SERVE CIVIL SUMMONSES AND OTHER CIVIL PAPERS AND TO EXECUTE SEARCH WARRANTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-258 reads as rewritten:

"§ 105-258. Powers of Secretary of Revenue; who may sign and verify pleadings, legal documents, etc. legal documents; who may serve civil papers and execute search warrants.

(a) Secretary May Examine Data and Summon Persons. The Secretary of Revenue, for the purpose of ascertaining the correctness of any return, making a return where none has been made, or determining the liability of any person for any tax imposed by this Subchapter, or collecting any such tax, shall have the power to examine, personally, or by an agent designated by him, any books, papers, records, or other data which may be relevant or material to such inquiry, and the Secretary may summon the person liable for the tax or required to perform the act, or any officer or employee of such person, or any person having possession, custody, care or control of books of account containing entries relevant or material to the income and expenditures of the person liable for the tax or required to perform the act, or any other person having knowledge in the premises, to appear before the Secretary, or his agent, at a time and place named in the summons, and to produce such books, papers, records or other data, and to give such testimony under oath as may be relevant or material to such inquiry, and the Secretary or his agent may administer oaths to such person or persons. If any person so summoned refuses to obey such summons or to give testimony when

1 summoned, the Secretary may apply to the Superior Court of Wake County for an order
2 requiring such person or persons to comply with the summons of the Secretary, and the
3 failure to comply with such court order shall be punished as for contempt.

4 (b) Department Employees May Sign and Verify Legal Documents. In any
5 ~~action, proceeding, or matter of any kind, a matter to which the Secretary of Revenue is a~~
6 ~~party or in which he may have the Secretary has an interest, all pleadings, legal notices,~~
7 ~~proofs of claim, warrants for collection, certificates of tax liability, executions, and other legal~~
8 ~~documents may be signed and verified on behalf of the Secretary by (i) a Deputy or~~
9 ~~Assistant Secretary or by Secretary; (ii) any director or assistant director of any division~~
10 ~~of the Department of Revenue or by Revenue; or (iii) any other agent or employee of the~~
11 ~~Department so authorized by the Secretary of Revenue.~~

12 (c) Department Employees May Serve Civil Papers. In a civil matter to which
13 the Secretary of Revenue is a party or in which the Secretary has an interest, any agent
14 or employee of the Department of Revenue may serve summonses and other legal
15 documents lawfully issued when so authorized by the Secretary of Revenue.

16 (d) Department Employees May Execute Search Warrants. In a matter to which
17 the Secretary of Revenue is a party or in which the Secretary has an interest, any agent
18 or employee of the Department of Revenue may execute a search warrant issued
19 pursuant to Article 11 of Chapter 15A of the General Statutes when so authorized by the
20 Secretary of Revenue."

21 Sec. 2. G.S. 15A-247 reads as rewritten:

22 **"§ 15A-247. Who may execute a search warrant.**

23 A search warrant may be executed by any law-enforcement officer acting within his
24 territorial jurisdiction, whose investigative authority encompasses the crime or crimes
25 involved. A search warrant may be executed by an employee of the Department of
26 Revenue when so authorized pursuant to G.S. 105-258."

27 Sec. 3. This act becomes effective July 1, 1991.