

## CHAPTER 5

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**TAXATION**


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**HOUSE BILL 96-1036**

BY REPRESENTATIVE Snyder;  
also SENATORS Hopper and Tebedo.

**AN ACT**

**CONCERNING THE AUTHORITY OF A TREASURER TO DETERMINE THE METHOD OF COLLECTING  
DELINQUENT PERSONAL PROPERTY TAXES.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 39-10-111 (1) (a) and (11), Colorado Revised Statutes, 1994 Repl. Vol., as amended, are amended to read:

**39-10-111. Distraint, sale of personal property - redemption of mobile home.**

(1) (a) At any time after the first day of October, the treasurer shall enforce collection of delinquent taxes on personal property by COMMENCING A COURT ACTION FOR COLLECTION OR EMPLOYING A COLLECTION AGENCY AS PROVIDED IN SECTION 39-10-112 OR BY distraining, seizing, and selling ~~such~~ THE property. Whenever a distraint warrant is issued, it shall be served by the sheriff or a commissioned deputy or, at the discretion of ~~such~~ THE sheriff, by a private server of process hired for ~~such~~ THE purpose. Any cost incurred as a result of hiring a private server of process shall be paid by the sheriff's office, and ~~such~~ THE cost shall not exceed the amount specified in section 30-1-104 (1) (a), C.R.S.

(11) If taxes become delinquent upon the personal property of any public utility, as defined in article 4 of this title, the treasurer of the county in which ~~such~~ THE taxes are delinquent shall COMMENCE A COURT ACTION FOR COLLECTION OR EMPLOY A COLLECTION AGENCY AS PROVIDED IN SECTION 39-10-112 OR distraint and ~~may~~ sell any of the personal property of ~~such~~ THE utility wherever found in the manner that other personal property is to be distrained and sold for the nonpayment of taxes; except that, for taxes imposed pursuant to article 1 of title 32, C.R.S., that equal or exceed one hundred mills in any one year, only the personal property that is the subject of the taxes and located within the special district at the time of assessment

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

of the taxes shall be subject to levy or distraint for the payment of ~~such~~ THE delinquent taxes.

**SECTION 2.** 39-10-112, Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

**39-10-112. Action to collect unpaid taxes.** (1) (a) ~~If the treasurer is unable to locate personal property upon which taxes have been levied in order to collect such taxes through distraint, seizure, and sale or if any such personal property has been removed from the treasurer's county,~~ IN ORDER TO COLLECT DELINQUENT PERSONAL PROPERTY TAXES AND ANY DELINQUENT INTEREST THEREON, the treasurer may, AT THE TREASURER'S OPTION, SUE THE OWNER OF THE PERSONAL PROPERTY IN ANY COURT IN THE TREASURER'S COUNTY HAVING JURISDICTION, enter into a contract to employ the services of any collection agency ~~which~~ THAT is duly licensed pursuant to section 12-14-119 or 12-14-120, C.R.S., ~~to collect such taxes and any delinquent interest thereon that are due and unpaid~~ OR DISTRAIN, SEIZE, AND SELL THE PERSONAL PROPERTY AS PROVIDED IN SECTION 39-10-111.

(b) Any contract ~~entered into pursuant to paragraph (a) of this subsection (1)~~ TO EMPLOY THE SERVICES OF ANY DULY LICENSED COLLECTION AGENCY shall be awarded by competitive bid, but the treasurer may reject any or all bids or parts of bids. The fees of the collection agency shall be paid by the treasurer from the moneys recovered by the collection agency, but in no event shall the fees paid to the collection agency exceed one-third of the amount recovered.

(2) ~~In addition to the provisions of subsection (1) of this section, if for any reason the treasurer deems court action advisable, the treasurer may sue the owner of such personal property in any court in the treasurer's county having jurisdiction:~~

(3) Upon the trial of ~~such~~ ANY court action brought pursuant to subsection ~~(2)~~ (1) of this section, a certificate from the treasurer, reciting the amount of ~~such~~ THE taxes and any delinquent interest thereon and that the same has not been paid, shall be prima facie evidence that the amount claimed is due and unpaid, and judgment shall be given for the amount thereof, together with all costs, and execution shall issue as in other cases. Whenever the treasurer sues in court, the county attorney shall perform all legal work involved if requested by the treasurer, and the costs of the action shall be paid by the county.

(4) Nothing in this section shall be construed as relieving the treasurer of the duties of the office of county treasurer.

**SECTION 3.** 39-10-113 (1) and (2), Colorado Revised Statutes, 1994 Repl. Vol., are amended to read:

**39-10-113. Removal or transfer of personal property - collection of taxes.** (1) (a) If at any time after the lien of general taxes has attached the treasurer believes for any reason that any taxable personal property may be removed from the state of Colorado or may be dissipated or distributed, so that taxes to be levied for the current year may not be collectible, ~~he~~ THE TREASURER may at once proceed to collect ~~such~~ THE taxes and, if ~~he~~ THE TREASURER deems it necessary, may distraint, seize, and sell ~~such~~ THE personal property to enforce collection. Upon ~~his~~ THE TREASURER'S request,

the assessor shall certify to ~~him~~ THE TREASURER the valuation for assessment of ~~such~~ THE personal property for the current year. If the levy for the current year has not then been fixed and made, the levy for the previous year shall be used to determine the amount of taxes due.

(b) Repealed.

(2) Whenever the assessor notifies the treasurer of the valuation of any taxable personal property, as provided in section 39-5-110 (2), which property the assessor believes might be removed from the county, the treasurer shall proceed to collect the taxes on ~~such~~ THE property BY COMMENCING A COURT ACTION FOR COLLECTION OR EMPLOYING A COLLECTION AGENCY AS PROVIDED IN SECTION 39-10-112 OR BY distraining, seizing, and selling the ~~same~~ PERSONAL PROPERTY AS PROVIDED IN SECTION 39-10-111 if either ~~he~~ THE TREASURER or the assessor deems it necessary. If the levy for the current year has not then been fixed and made, the levy for the previous year shall be used to determine the amount of taxes due.

**SECTION 4. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: February 22, 1996