Rep. Spilsbury, Sull. 3
Rep. Ames, Ches. 13
May 7, 2024
2024-1796h
12/02

Amendment to SB 585-FN

Amend the bill by replacing section 1 with the following:

1 Meals and Rooms Tax; Taxes as Property Lien. Amend RSA 78-A:21 to read as follows:

78-A:21 Taxes as Property Lien. If any operator required to collect and transmit a tax under this chapter neglects or refuses to pay the tax after demand, the amount, together with all penalties and interest provided for in this chapter and together with any costs that may accrue in addition to the tax becomes a lien in favor of the state upon all property and rights to property whether real or personal belonging to the operator. The lien arises at the time demand is made by the commissioner and continues until the liability for the sum, with interest and costs, is satisfied or becomes unenforceable. Certificates of release of such lien shall be given by the commissioner on the satisfaction of the lien. For the purposes of this section, [~~operator~~] ***"operator"*** [~~in the case of corporations includes the president, treasurer, or any other person in a managerial capacity of said corporation. Operator, in the case of a limited liability company~~], includes [~~members and~~] any [~~other~~] person [~~in a managerial capacity of the limited liability company.~~] ***who has actual or constructive managerial or custodial responsibility for the collection and transmission of a tax subject to demand under this chapter. A mere ownership interest shall not be considered a sufficient nexus in the managerial or custodial relationship over the collected tax to cause a person to be deemed an operator under this section. The department of revenue administration shall have rule-making authority to develop criteria for a determination of who in fact possesses such managerial or custodial responsibility.*** No lien against real property under this section shall be effective until it is recorded at the registry of deeds for the county in which the real property lies.

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AMENDED ANALYSIS

This bill provides that, for purposes of a property tax lien filed against an operator for unpaid meals and rooms taxes, the operator of a limited liability company includes any person who has actual or constructive managerial or custodial responsibility for the collection and transmission of taxes.