

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4285

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending sections 47 and 89a (MCL 211.47 and 211.89a), section
47 as amended by 1994 PA 253 and section 89a as amended by 2008 PA
512.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 47. (1) If a person ~~, firm, or corporation~~ neglects or
2 refuses to pay a tax on property assessed to that person, ~~firm, or~~
3 ~~corporation,~~ the township or city treasurer, as ~~the case may be,~~
4 **APPROPRIATE**, shall, or for the state education tax levied under the
5 state education tax act, ~~Act No. 331 of the Public Acts of 1993,~~
6 ~~being sections 211.901 to 211.906 of the Michigan Compiled Laws,~~
7 **1993 PA 331, MCL 211.901 TO 211.906**, the state treasurer may also,
8 **SUBJECT TO SUBSECTION (4)**, collect the tax by seizing the personal

1 property of that person, ~~firm, or corporation in this state~~, in an
2 amount sufficient to pay the tax, the fees, and the charges, for
3 subsequent sale of the property, and no property is exempt. The
4 treasurer may sell the property seized, in an amount sufficient to
5 pay the taxes and all charges, at public auction in the place where
6 seized or in the township or city of which he or she is treasurer
7 or for the state treasurer, anywhere in the state. The treasurer
8 shall give public notice of the auction at least 5 days before the
9 sale by posting written or printed notices in 3 public places in
10 the township, village, or city where the sale is to be made. The
11 sale may be adjourned from time to time if the treasurer considers
12 it necessary. If the property is seized and advertised, the sale
13 may take place at any time within 6 days after the expiration of
14 the warrant of sale. If it is necessary to sell personal property
15 that brings more than the amount of taxes and charges, the balance
16 shall be returned to the person, ~~firm, or corporation~~ from whose
17 possession the property was taken. However, if the state seizes and
18 sells property and the sale brings more than the amount of the
19 state education tax and charges due, the state shall distribute the
20 balance on a pro rata basis to any other local taxing units to
21 which delinquent personal property taxes on that property remain
22 unpaid. If ~~the property is~~ seized **UNDER THIS SECTION** cannot be sold
23 for want of bidders, and in that case only, the treasurer shall
24 return a statement of that fact and the tax shall be returned as
25 unpaid.

26 (2) Notwithstanding or in lieu of subsection (1), **AND SUBJECT**
27 **TO SUBSECTION (4)**, the township or city treasurer, in the name of

1 the township, village, or city, or the state treasurer, in the name
 2 of the state, may sue the person ~~, firm, or corporation~~ to whom the
 3 tax is assessed and garnishee any debtor or debtors of that person.
 4 ~~, firm, or corporation.~~ The tax roll ~~shall be~~ **IS** prima facie
 5 evidence of the debt sought to be recovered. **IF THE PERSON TO WHOM**
 6 **THE TAX IS ASSESSED DID NOT OWN THE PROPERTY AT THE TIME THE UNPAID**
 7 **TAX WAS LEVIED, THE TOWNSHIP OR CITY TREASURER, IN THE NAME OF THE**
 8 **TOWNSHIP, VILLAGE, OR CITY, OR THE STATE TREASURER, IN THE NAME OF**
 9 **THE STATE, MAY SUE ANY PERSON THAT DID OWN OR OCCUPY THE PROPERTY**
 10 **AT THE TIME THE UNPAID TAX WAS LEVIED AND GARNISHEE ANY DEBTOR OR**
 11 **DEBTORS OF THAT PERSON.**

12 (3) If a person ~~, firm, or corporation~~ having possession of
 13 **THAT POSSESSES** the personal property of ~~any other~~ **ANOTHER** person ~~,~~
 14 ~~firm, or corporation~~ is assessed for that property and ~~is obliged~~
 15 ~~to pay~~ **PAYS** the taxes on the property, the person ~~, firm, or~~
 16 ~~corporation~~ paying the taxes may recover in a civil action from the
 17 person ~~, firm, or corporation~~ for whose benefit the taxes were paid
 18 ~~, the~~ money paid with the applicable interest.

19 (4) **NOTWITHSTANDING ANY OTHER PROVISION IN THIS ACT OR CHARTER**
 20 **TO THE CONTRARY, A PERSON IS NOT SUBJECT TO PERSONAL LIABILITY FOR**
 21 **ANY UNPAID PROPERTY TAX LEVIED ON REAL PROPERTY UNLESS THAT PERSON**
 22 **OWNED THE REAL PROPERTY ON THE TAX DAY FOR THE YEAR IN WHICH THE**
 23 **UNPAID TAX WAS LEVIED. A PERSON CONTESTING PERSONAL LIABILITY UNDER**
 24 **THIS SUBSECTION MAY RAISE THE ISSUE IN AN ENFORCEMENT ACTION IN THE**
 25 **TRIAL COURT REGARDLESS OF WHETHER THE PERSON PREVIOUSLY RAISED THE**
 26 **ISSUE WITH THE LOCAL BOARD OF REVIEW. AS USED IN THIS SUBSECTION,**
 27 **"TRIAL COURT" MEANS ANY DISTRICT COURT, PROBATE COURT, MUNICIPAL**

1 COURT, SMALL CLAIMS COURT, APPELLATE COURT, OR OTHER TRIBUNAL IN
2 WHICH THE ISSUE OF PERSONAL LIABILITY IS LITIGATED.

3 (5) AS USED IN THIS SECTION, "PERSON" MEANS AN INDIVIDUAL,
4 PARTNERSHIP, CORPORATION, ASSOCIATION, LIMITED LIABILITY COMPANY,
5 OR ANY OTHER LEGAL ENTITY.

6 Sec. 89a. (1) Notwithstanding the provisions of a charter of a
7 county adopted pursuant to 1966 PA 293, MCL 45.501 to 45.521, or
8 the provisions of the charter of a home rule city, to the contrary,
9 the city treasurer of a city with a population of 600,000 or more
10 shall return all uncollected delinquent taxes levied on real
11 property after December 31, 2002 on the March 1 immediately
12 following the year in which the taxes are levied. For the purposes
13 of this section, delinquent taxes include all interest and
14 penalties that accrue after August 15 of the year in which all
15 taxes billed by the city are levied if that interest and penalty
16 remain unpaid on the date the delinquent taxes are returned to the
17 county treasurer.

18 (2) The city treasurer of a city with a population of 600,000
19 or more may return all uncollected delinquent taxes levied in 2001,
20 2002, or 2001 and 2002 to the county treasurer for collection under
21 this section on March 1, 2004. A city treasurer shall provide the
22 county treasurer written notice of his or her intent to return
23 uncollected delinquent taxes levied in 2001 or 2002 under this
24 subsection not later than February 1, 2004. If uncollected
25 delinquent taxes levied in 2001 or 2002 are returned to the county
26 treasurer for collection under this subsection, the county
27 treasurer shall collect those taxes with taxes returned as

1 delinquent in 2004.

2 (3) After the delinquent taxes levied on real property are
3 returned to the county treasurer for collection under this section,
4 the provisions of this act apply for collection of those taxes and,
5 except for taxes levied on or before December 31, 2002, for the
6 issuance of notes in anticipation of the collection of those taxes.

7 (4) A judgment entered under section 78k that extinguishes any
8 lien for unpaid taxes or special assessments does not extinguish
9 the right of the city to bring an in personam action under this act
10 or its charter to enforce personal liability for those unpaid taxes
11 or special assessments. The city may bring an in personam action to
12 enforce personal liability for unpaid delinquent taxes levied prior
13 to January 1, 2003 or special assessments not returned as
14 delinquent under this section within 15 years after the taxes or
15 special assessments are levied. **AN IN PERSONAM ACTION BROUGHT UNDER
16 THIS ACT OR A CITY'S CHARTER TO ENFORCE PERSONAL LIABILITY FOR
17 UNPAID TAXES IS SUBJECT TO SECTION 47(4).**

18 (5) If a city treasurer returns uncollected delinquent taxes
19 levied on real property on or before December 31, 2002 to the
20 county treasurer for collection under this section, the county
21 treasurer shall remit to the city treasurer after each month the
22 taxes and interest collected during that month.

23 Enacting section 1. This amendatory act is retroactive and is
24 effective for any unpaid property taxes or special assessments
25 subject to collection under the general property tax act, 1893 PA
26 206, MCL 211.1 to 211.155, on and after the date this amendatory
27 act is enacted into law. However, this amendatory act is not

1 intended to affect any final determination, not subject to further
2 appeal, of personal liability in a proceeding or case decided by
3 the tax tribunal or a court of this state issued before the date
4 this amendatory act is enacted into law.