

SFA

BILL ANALYSIS

Senate Fiscal Agency

• Lansing, Michigan 48909

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Senate Bill 648

Sponsor: Senator Doug Carl

Committee: Human Resources and Senior Citizens

Mich. State Law Library

Date Completed: 10-25-89

SUMMARY OF SENATE BILL 648 as introduced 10-25-89:

The bill would amend the Michigan Employment Security Act to require the transferor of a business to disclose to the transferee certain information pertaining to the transferor's unemployment tax liability and experience. A transferor who failed to provide accurate information would be guilty of a misdemeanor and liable to the transferee for consequential damages.

Under the Act, a person or employing unit that acquires the organization, trade, business, or 75% or more of the assets of an employing unit as a successor generally is liable for contributions and interest due to the Michigan Employment Security Commission from the transferor at the time of the acquisition.

The bill provides that, at least two calendar days, excluding a Saturday, Sunday, or legal holiday, before the acceptance of an offer, the transferor or his or her real estate broker or other agent would have to disclose to the transferee the amounts of the transferor's outstanding employment tax liability; unreported unemployment tax liability; tax payments, tax rates, and cumulative benefit charges for the most recent five years; a listing of all individuals currently employed by the transferor; and a listing of all employees separated from employment with the transferor in the most recent 12 months. The information would have to be reported on a form provided by the Commission. The form would have to specify other information, as determined by the Commission, that would be required for a transferee to estimate future unemployment compensation costs based on the transferor's benefit charge and tax reporting and payment experience with the Commission.

Failure of the transferor, or his or her real estate broker or other agent, to provide accurate information required by the bill would be a misdemeanor punishable by imprisonment for up to 90 days, a maximum fine of \$2,500, or both. The transferor, broker, or agent also would be liable to the transferee for any consequential damages resulting from the failure to comply. A broker or agent would not be liable for consequential damages, however, if he or she exercised good faith in compliance with the disclosure of information.

The bill specifies that the remedy provided the transferee would not be exclusive and could not be construed to reduce any other right or remedy against any party provided for in this or any other Act. The bill also provides that nothing in it could be construed to decrease the liability of the transferee as a successor in interest, or to prevent the transfer of a rating account balance as provided in the Act.

S.B. 648 (10-25-89)

The bill is tie-barred to House Bills 4815 and 4817, Senate Bills 68 and 639-647, and an unIntroduced bill (request no. 04207'89).

MCL 421.15

Legislative Analyst: S. Margules

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: K. Lindquist

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