

HOUSE BILL No. 5768

April 28, 1992, Introduced by Rep. Hoffman and referred to the Committee on Taxation.

A bill to amend section 25 of Act No. 122 of the Public Acts of 1941, entitled as amended

"An act to establish a revenue division of the department of treasury; to prescribe its powers and duties as the revenue collection agency of the state; to prescribe certain powers and duties of the state treasurer; to create the position and to define the powers and duties of the state commissioner of revenue; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to provide an appropriation; to abolish the state board of tax administration; and to declare the effect of this act,"

as amended by Act No. 58 of the Public Acts of 1986, being section 205.25 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 25 of Act No. 122 of the Public Acts of
2 1941, as amended by Act No. 58 of the Public Acts of 1986, being

1 section 205.25 of the Michigan Compiled Laws, is amended to read
2 as follows:

3 Sec. 25. (1) The commissioner, or an authorized representa-
4 tive of the commissioner, may cause a demand to be made on a tax-
5 payer for the payment of a tax, unpaid account, or amount due the
6 state or any of its departments, institutions, or agencies,
7 subject to administration under this act. If the liability
8 remains unpaid for 10 days after the demand and proceedings are
9 not taken to review the liability, the commissioner or an autho-
10 rized representative of the commissioner may issue a warrant
11 under the official seal of that office. Except as provided in
12 ~~subsection~~ SUBSECTIONS (5) AND (7), the commissioner or an
13 authorized representative of the commissioner, through any state
14 officer authorized to serve process or through his or her autho-
15 rized employees, may levy on all property and rights to property,
16 real and personal, tangible and intangible, belonging to the tax-
17 payer or on which a lien is provided by law for the amount of the
18 deficiency, and sell the real and personal property of the tax-
19 payer found within the state for the payment of the amount due,
20 the cost of executing the warrant, and the additional penalties
21 and interest. Except as provided in subsection (6), the officer
22 or agent serving the warrant shall proceed upon the warrant in
23 all respects and in the same manner as prescribed by law in
24 respect to executions issued against property upon judgments by a
25 court of record. The state, through the commissioner or an
26 authorized representative of the commissioner, may bid for and
27 purchase any property sold pursuant to this section.

1 (2) A person who refuses or fails to surrender any property
2 or rights to property subject to levy, upon demand by the commis-
3 sioner or an authorized representative of the commissioner, is
4 personally liable to the state in a sum equal to the value of the
5 property or rights not surrendered, but not exceeding the amount
6 due for which the levy was made, together with costs and interest
7 on the sum at the rate provided in section 23(2) from the date of
8 the levy. Any amount, other than costs, recovered under this
9 subsection shall be credited against the liability for the col-
10 lection of which the levy was made.

11 (3) In addition to the personal liability imposed by subsec-
12 tion (2), if a person required to surrender property or rights to
13 property fails or refuses to surrender the property or rights to
14 property without reasonable cause, the person shall be liable for
15 a penalty equal to 50% of the amount recoverable under subsection
16 (2), none of which penalty shall be credited against the liabil-
17 ity for the collection of which the levy was made.

18 (4) A person in possession of, or obligated with respect to,
19 property or property rights subject to levy and upon which a levy
20 has been made who, upon demand of the commissioner or an autho-
21 rized representative of the commissioner, surrenders the property
22 or rights to property or discharges the obligation to the commis-
23 sioner or an authorized representative of the commissioner or who
24 pays a liability under subsection (1) shall have his or her obli-
25 gation to a person delinquent in payment of a tax or other
26 account reduced in an amount equal to the property or rights to
27 property surrendered or amounts paid to the state.

1 (5) There shall be exempt from levy under this section:

2 (a) For an unpaid tax, the type of property and the amount
3 of that property as provided in section 6334 of the internal rev-
4 enue code.

5 (b) For an unpaid account, or amount due the state or any of
6 its departments other than an unpaid tax, disposable earnings to
7 the extent provided in section 303 OF TITLE III of the consumer
8 credit protection act, PUBLIC LAW 90-321, 15 U.S.C. 1673.

9 (c) The effect of a levy on salary or wages shall be contin-
10 uous from the date the levy is first made until the liability out
11 of which the levy arose is satisfied.

12 (6) A warrant-notice of levy may be served by certified
13 mail, return receipt requested, on any person in possession of,
14 or obligated with respect to, property and rights to property,
15 real and personal, tangible and intangible, belonging to the tax-
16 payer or on which a lien is provided by law. The date of deliv-
17 ery on the receipt shall be the date the levy is made. A person
18 may, upon written notice to the commissioner, have all notices of
19 levy by mail sent to 1 designated office.

20 (7) IF THE COMMISSIONER OR HIS OR HER AUTHORIZED REPRESENTA-
21 TIVE CAN REASONABLY DETERMINE THE SOCIAL SECURITY NUMBER OR TAX
22 IDENTIFICATION NUMBER OF THE OWNER OF PROPERTY THAT MAY BE
23 SUBJECT TO A LIEN UNDER THIS ACT, THE COMMISSIONER OR HIS OR HER
24 AUTHORIZED REPRESENTATIVE SHALL NOT PLACE A LIEN AGAINST THAT
25 PROPERTY BEFORE FIRST DETERMINING THAT THE SOCIAL SECURITY NUMBER
26 OR TAX IDENTIFICATION NUMBER OF THE PROPERTY'S OWNER IS IDENTICAL

1 TO THE SOCIAL SECURITY NUMBER OR TAX IDENTIFICATION NUMBER OF THE
2 TAXPAYER WHOSE DEBT THE LIEN IS TO SECURE.