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WRONGFUL LIENS

House Bill 4312 as introduced
First Analysis (2-28-95)

Sponsor: Rep. Eric Bush
Committee: Tax Policy

THE APPARENT PROBLEM:

Public Act 13 of 1993 (House Bill 4104) was part of a two-bill package labeled "the taxpayer bill of rights." One of its features was the requirement that the treasury department act within certain specified deadlines to remove liens against taxpayers once the liability had been satisfied or it had been determined that the filing of the lien was improper. Tax specialists say that when a tax lien has been filed but should not have been, the department removes it by issuing a certificate of nonattachment or similar document. Some people believe that in cases where a lien had been filed in error, the certificate of nonattachment should state that fact clearly as a further protection and courtesy to the taxpayer, who may have been embarrassed, inconvenienced, or economically harmed due to the lien.

THE CONTENT OF THE BILL:

The bill would amend the revenue act to address the issue of liens recorded against taxpayers by mistake. Generally, it would require the Department of Treasury, in certain cases, to acknowledge in an official document that the lien should not have been recorded against the taxpayer. Specifically, the bill would require the following.

-- When the Department of Treasury had received money to satisfy a tax liability or had received information canceling the liability but subsequently recorded a lien to satisfy that same tax liability, the department, upon request and the determination by the department that the lien had been filed and recorded in error, would have to issue a certificate of withdrawal stating that the recorded lien had been filed in error. The certificate would have to be issued "with all due haste" but not more than three business days after the department had determined the lien had been erroneously recorded. The same would be required of a release of a

warrant or warrant-notice of levy issued and served in error.

-- In cases in which the department determined, upon request, that the taxpayer named on a recorded lien did not have an interest in certain properties owned by another, the department would have to file a certificate of nonattachment clearly indicating that the taxpayer named on the recorded lien did not have any interest in the property or rights of property of the other person. A similar provision would apply to a warrant or warrant-notice of levy.

MCL 205.29a

FISCAL IMPLICATIONS:

The bill would have no fiscal impact, according to the House Fiscal Agency. (2-17-95)

ARGUMENTS:

For:

The bill would require the Department of Treasury to issue a form of apology when removing a lien imposed in error as a further protection and courtesy to the offended taxpayer.

POSITIONS:

The Department of Treasury has indicated its support for the bill. (2-23-95)

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