



**Senate Fiscal Agency**  
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BILL



ANALYSIS

**Telephone: (517) 373-5383**  
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House Bill 4312 (as reported with amendments)  
Sponsor: Representative Eric Bush  
House Committee: Tax Policy  
Senate Committee: Finance

Date Completed: 4-27-95

### **RATIONALE**

Public Act 13 of 1993, part of a package of legislation known as the "taxpayer bill of rights", requires the Treasury Department to act within specified deadlines to remove liens against taxpayers once a tax liability has been satisfied, or it has been determined that the filing of the lien was improper. Reportedly, 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 in which 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.

### **CONTENT**

**The bill would amend the revenue Act to require the Department of Treasury to indicate that a lien had been filed in error, or a warrant or warrant-notice of levy had been issued in error, when the Department recorded a lien or issued a warrant or warrant-notice of levy after a tax liability had been satisfied or the Department received information that would cancel the liability. The bill also would amend current requirements that the Department issue a certificate of nonattachment or a release when a lien is filed against property to which the State does not have a lien or a warrant or warrant-notice of levy is issued regarding property not subject to levy.**

Specifically, if the Department received money to satisfy all the tax liabilities of a taxpayer or received information that would cancel all the tax liabilities of the taxpayer, and subsequently recorded a lien or issued a warrant or warrant-notice of levy to satisfy the same tax liability, the

Department, upon request and upon a determination by it that the lien was filed or recorded in error or the warrant-notice of levy was issued and served in error, would have to issue a certificate of withdrawal or a release of levy stating that the recorded lien was filed in error or the warrant or warrant-notice of levy was issued and served in error. The certificate or release would have to be issued with all due haste, but not more than five business days after the Department determined that it had erroneously recorded a lien or erroneously issued a warrant or warrant-notice of levy.

Currently, if the Department files for recording a lien to satisfy a tax liability and determines that the lien is recorded or filed against property or rights of property to which the State does not have a lien, the Department must file for recording a certificate of discharge, release, or nonattachment within three business days after it determines that the State does not have a lien. The bill provides, instead, that if the Department filed for recording a lien and upon request determined that the taxpayer named in the recorded lien did not have any interest in certain properties owned by another person, the Department would have to file for recording a certificate of nonattachment, within a five-day period. The Department also would have to indicate clearly on the certificate of nonattachment that the taxpayer named on the recorded lien did not have any interest in the property or rights of property of the other person.

Currently, if a warrant or warrant-notice of levy is issued to levy on property or property rights to satisfy a tax liability and the Department determines that the property or rights are not subject to levy, the Department must serve a

release of levy on the person who was served with the warrant or warrant-notice of levy within three days after determining that the property or rights are not subject to levy. The bill would require that the Department serve the release within five days, and clearly indicate on the release of levy that the property or rights of property were not subject to levy.

MCL 205.29a

### **SENATE COMMITTEE ACTION**

The Senate Finance committee adopted amendments to the bill that would allow the Department of Treasury five, rather than three, days to issue a certificate of withdrawal or release of levy after it had determined that it had erroneously recorded a lien, or erroneously issued a warrant or a warrant notice of levy.

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

The bill would require the Department of Treasury, when removing a lien imposed in error, to acknowledge its error, as a courtesy to a possibly embarrassed or inconvenienced taxpayer.

Legislative Analyst: G. Towne

### **FISCAL IMPACT**

The Department of Treasury has indicated that the legislation would codify and clarify current operating procedures.

Fiscal Analyst: L. Nacionales-Tafoya

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.