

# HOUSE BILL No. 5708

(As passed the Senate, May 9, 2002)

February 21, 2002, Introduced by Rep. Patterson and referred to the Committee on House Oversight and Operations.

A bill to amend 1889 PA 226, entitled

"An act to provide for the collection of specific taxes from corporations, copartnerships, parties or persons, subject under any laws of this state to the payment of such taxes; to fix the time when such taxes become a lien upon the property of such corporations, copartnerships, parties or persons, and to define the property to which the lien shall attach; and to repeal Act No. 57 of the session laws of 1872, approved March twenty-ninth, 1872, and Acts No. 10 and 11 of the session laws of 1873, approved February fourteenth, 1873, being sections numbered 1249 to 1256, both inclusive, of Howell's annotated statutes of 1882,"

by amending sections 1, 2, 3, 4, and 5 (MCL 207.441, 207.442, 207.443, 207.444, and 207.445).

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        Sec. 1. ~~That all specific~~ SPECIFIC taxes imposed by any  
2    law of this state upon any corporation, copartnership, party, or  
3    person, that ~~shall~~ remain unpaid after the last day of the  
4    month in which by law ~~such~~ THE specific taxes are ~~made~~  
5    payable, ~~shall be~~ ARE subject to interest computed at the rate

**HB 5708, As Passed Senate, May 9, 2002**

2

1 of 7 per cent per annum from the day ~~such~~ THE specific taxes  
2 ~~may have become~~ BECAME due to the day of payment. ~~thereof~~  
3 ~~Provided, That if in any case any~~ FURTHERMORE, IF A specific  
4 tax, with the accrued interest ~~thereon, shall not be~~ IS NOT  
5 paid within 10 days after demand ~~thereof~~ FOR PAYMENT is made by  
6 the ~~auditor general~~ STATE TREASURER, then any corporation,  
7 copartnership, party, or person so failing to pay as demanded —,  
8 ~~shall be~~ IS subject to a penalty of 2 per cent for each month or  
9 fraction ~~thereof~~ OF A MONTH, to be computed upon the amount due  
10 from ~~such~~ THE corporation, copartnership, party, or person at  
11 the date of ~~such~~ THE demand for payment. And for the amount so  
12 due, including the penalty, ~~herein imposed,~~ the ~~auditor~~  
13 ~~general~~ STATE TREASURER shall bring an action in the name of the  
14 people of the state of Michigan, before the judge of the circuit  
15 court of any county in this state having jurisdiction, ~~thereof,~~  
16 in open court, if it shall be in session, otherwise at his OR HER  
17 chambers, for the recovery of the ~~same; and said judge,~~ AMOUNT  
18 DUE, INCLUDING THE PENALTY, after not less than 30 days' notice  
19 to every such corporation, copartnership, party, or person of the  
20 commencement of ~~such~~ THE action, either by actual service of a  
21 copy of the petition of ~~said auditor general~~ THE STATE  
22 TREASURER, or by publication, as the ~~said judge~~ COURT may  
23 order, and after proper hearing of all and singular the premises  
24 in ~~such said~~ THE petition by ~~said auditor general~~ THE STATE  
25 TREASURER set forth, may enter a decree for the amount of ~~such~~  
26 THE specific taxes, interest, and penalty as ~~herein~~ provided —,  
27 ~~and execution shall forthwith~~ IN THIS ACT. EXECUTION SHALL

1 IMMEDIATELY issue to the sheriff of any county in which the  
2 principal office of the corporation or copartnership is located,  
3 or the party or person may reside, commanding him OR HER to  
4 ~~forthwith~~ IMMEDIATELY levy the same, together with 10 per cent  
5 as his OR HER fees, by distress and sale, as provided by section  
6 ~~10, chapter 191, Howell's annotated statutes of 1882~~ 6038 OF  
7 THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.6038, of  
8 any of the property, real or personal, belonging to ~~such~~ THE  
9 corporation, copartnership, party, or person, wherever the ~~same~~  
10 PROPERTY may be found in this state, and to pay over the ~~same~~  
11 REVENUE, reserving his OR HER fees, to the state treasurer,  
12 within 10 days after the same is collected.

13       Sec. 2. If the property so distrained cannot be sold for  
14 want of bidders, or if the property of the corporation is insuf-  
15 ficient to pay the tax, the sheriff shall ~~forthwith~~ IMMEDIATELY  
16 return a statement of the same to the ~~auditor general~~ STATE  
17 TREASURER, and if such corporation ~~shall still neglect or~~  
18 ~~refuse~~ NEGLECTS OR REFUSES to pay ~~such~~ THE tax within 30 days  
19 after such return by the sheriff, it shall be deemed a forfeiture  
20 of all its corporate or chartered rights and privileges.

21       Sec. 3. ~~Whenever any~~ IF A corporation, copartnership,  
22 party, or person, doing business in this state, ~~shall neglect or~~  
23 ~~refuse~~ NEGLECTS OR REFUSES to make A report as required by law,  
24 upon which the amount of specific tax imposed by any law of this  
25 state, and due and payable by any ~~such~~ corporation, copartner-  
26 ship, party, or person, is computed, the ~~auditor general~~ STATE  
27 TREASURER shall estimate the amount of specific tax due from and

**HB 5708, As Passed Senate, May 9, 2002**

4

1 payable by ~~such~~ THE corporation, copartnership, party, or  
2 person, from the best information he OR SHE may be able to  
3 obtain, and charge ~~such~~ THAT amount upon the books of his OR  
4 HER office. ~~, and after such estimate shall be so made by him,~~  
5 ~~he shall forthwith~~ AFTER MAKING THE ESTIMATE, THE STATE TREA-  
6 SURER SHALL IMMEDIATELY send by mail or otherwise ~~, a written~~  
7 notice signed by him OR HER to any of the officers or directors  
8 of ~~such~~ THE corporation, or to any member of a copartnership,  
9 or to the party or person, of the amount of the specific tax ~~so~~  
10 estimated by him OR HER as due and payable by any ~~such~~ THE cor-  
11 poration, copartnership, party, or person.

12 Sec. 4. If, in not less than 40 days after ~~the~~ mailing or  
13 sending ~~such~~ THE notice, as provided in section 3, ~~of this~~  
14 ~~act, such~~ THE corporation, copartnership, party, or person ~~,~~  
15 ~~shall still refuse or neglect~~ REFUSES OR NEGLECTS to pay the  
16 specific tax so estimated, and no appeal ~~shall be~~ IS taken as  
17 ~~hereinafter~~ provided IN THIS ACT, ~~it shall be the duty of the~~  
18 ~~auditor general to proceed to collect said~~ STATE TREASURER  
19 SHALL COLLECT THE specific taxes in the same manner as is pro-  
20 vided in case of failure to pay ~~such~~ THE taxes after the report  
21 required by law has been made, as provided by section 1, ~~of this~~  
22 ~~act,~~ and with a like forfeiture of all corporate or chartered  
23 rights and privileges in case the property distrained cannot be  
24 sold for want of bidders, or is insufficient to pay the tax, and  
25 the corporation does not within 30 days of the sheriff's return  
26 of ~~such~~ THE facts, pay ~~such~~ THE specific tax.

1       Sec. 5. ~~In case any such corporation shall be~~ IF A  
2 CORPORATION IS dissatisfied with the estimate so made by the  
3 ~~auditor general~~ STATE TREASURER, as ~~[hereinbefore]~~  
4 ~~hereinafter~~ provided, it may appeal therefrom to the circuit  
5 court for the county of Ingham. ~~, and said~~ THE appeal shall be  
6 transmitted to the county clerk of the county of Ingham, and a  
7 copy to the ~~auditor general~~ STATE TREASURER within 30 days  
8 after the receiving of ~~such~~ THE estimate, accompanied with a  
9 statement in detail, signed and sworn to by ~~some~~ AN officer of  
10 ~~such~~ THE corporation in its behalf, or by ~~some~~ A member of  
11 ~~such~~ THE copartnership, or by the party or person making ~~such~~  
12 THE appeal, of the objections to ~~such~~ THE estimate and the  
13 reason why the same should not stand as a charge against ~~said~~  
14 THE corporation, copartnership, party, or person. ~~Such~~ THE  
15 appeal shall also be accompanied by a bond in double the amount  
16 of ~~such~~ THE estimate, with sufficient surety or sureties to be  
17 justified before a circuit judge, as to their pecuniary responsi-  
18 bility, and to be approved by him OR HER, conditioned that such  
19 corporation, copartnership, party, or person will prosecute its  
20 appeal to effect, and to pay all costs and charges which the  
21 court shall award, and also to pay any sum of money which shall  
22 appear by the judgment of the ~~said~~ THE court to be due from  
23 ~~such~~ THE corporation, copartnership, party, or person as a spe-  
24 cific tax. Upon filing with the clerk of the circuit court of  
25 the county of Ingham said appeal, statement and bond, with the  
26 approval of the circuit judge evidenced thereon, ~~such~~ THE court  
27 shall proceed to the trial and determination of the ~~same~~

**HB 5708, As Passed Senate, May 9, 2002**

6

1 APPEAL, according to the rules of law, allowing a trial by jury  
2 of all questions of fact, in cases where ~~such~~ A trial may be  
3 proper, and questions of law may be carried to the supreme  
4 court. Upon the trial of ~~said~~ THE appeal, the statement and  
5 estimate of the ~~auditor general shall be~~ STATE TREASURER ARE  
6 prima facie evidence of the amount of the specific tax due and  
7 payable by ~~said~~ THE corporation, copartnership, party, or  
8 person. ~~, and notice~~ NOTICE of trial of ~~said~~ THE appeal shall  
9 be served by ~~said~~ THE corporation upon the attorney general. ~~→~~  
10 ~~and in case~~ IF 2 regular terms of ~~said~~ THE court ~~shall at any~~  
11 ~~time pass~~ EXPIRE after filing ~~such~~ THE appeal, bond, and  
12 statement, and ~~such~~ THE corporation, copartnership, party, or  
13 person ~~shall not have~~ HAS NOT noticed the same for trial,  
14 ~~said~~ THE appeal, upon motion of the attorney general, shall be  
15 dismissed. ~~, or if said appeal shall be~~ IF THE APPEAL IS tried  
16 and judgment rendered ~~thereon~~ against ~~said~~ THE corporation,  
17 copartnership, party, or person, execution shall be issued  
18 ~~thereon~~ AS directed to the sheriff of the county in which the  
19 principal office of ~~such~~ THE corporation or copartnership is  
20 located, or in which ~~said~~ THE party or person may reside, and  
21 ~~such~~ THE sheriff shall proceed to collect the amount of ~~said~~  
22 THE execution, adding 10 per cent for his OR HER own fees there-  
23 in, in ~~like manner as~~ A MANNER LIKE THAT provided by section  
24 ~~10 of chapter 191 of Howell's annotated statutes of 1882~~ 6038  
25 OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.6038,  
26 and pay the ~~same~~ REVENUE over to the state treasurer,

**HB 5708, As Passed Senate, May 9, 2002**

7

1 ~~receiving his own fees,~~ within 10 days after ~~such~~ THE  
2 specific taxes ~~shall have been~~ ARE collected.