

Act No. 348
Public Acts of 2002
Approved by the Governor
May 23, 2002
Filed with the Secretary of State
May 23, 2002
EFFECTIVE DATE: May 23, 2002

**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2002**

Introduced by Rep. Patterson

ENROLLED HOUSE BILL No. 5708

AN ACT 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:

Sec. 1. Specific taxes imposed by any law of this state upon any corporation, copartnership, party, or person, that remain unpaid after the last day of the month in which by law the specific taxes are payable, are subject to interest computed at the rate of 7 per cent per annum from the day the specific taxes became due to the day of payment. Furthermore, if a specific tax, with the accrued interest is not paid within 10 days after demand for payment is made by the state treasurer, then any corporation, copartnership, party, or person so failing to pay as demanded is subject to a penalty of 2 per cent for each month or fraction of a month, to be computed upon the amount due from the corporation, copartnership, party, or person at the date of the demand for payment. And for the amount so due, including the penalty, the state treasurer shall bring an action in the name of the people of the state of Michigan, before the judge of the circuit court of any county in this state having jurisdiction, in open court, if it shall be in session, otherwise at his or her chambers, for the recovery of the amount due, including the penalty, after not less than 30 days' notice to every such corporation, copartnership, party, or person of the commencement of the action, either by actual service of a copy of the petition of the state treasurer, or by publication, as the court may order, and after proper hearing of all and singular the premises in the petition by the state treasurer set forth, may enter a decree for the amount of the specific taxes, interest, and penalty as provided in this act. Execution shall immediately issue to the sheriff of any county in which the principal office of the corporation or copartnership is located, or the party or person may reside, commanding him or her to immediately levy the same, together with 10 per cent as his or her fees, by distress and sale, as provided by section 6038 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6038, of any of the property, real or personal, belonging to the corporation, copartnership, party, or person, wherever the property may be found in this state, and to pay over the revenue, reserving his or her fees, to the state treasurer, within 10 days after the same is collected.

Sec. 2. If the property so distrained cannot be sold for want of bidders, or if the property of the corporation is insufficient to pay the tax, the sheriff shall immediately return a statement of the same to the state treasurer, and if such corporation neglects or refuses to pay the tax within 30 days after such return by the sheriff, it shall be deemed a forfeiture of all its corporate or chartered rights and privileges.

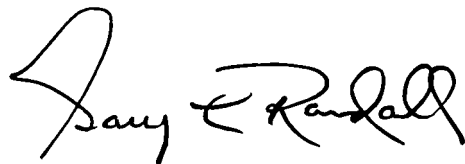
Sec. 3. If a corporation, copartnership, party, or person, doing business in this state, neglects or refuses to make a report as required by law, upon which the amount of specific tax imposed by any law of this state, and due and payable

by any corporation, copartnership, party, or person, is computed, the state treasurer shall estimate the amount of specific tax due from and payable by the corporation, copartnership, party, or person, from the best information he or she may be able to obtain, and charge that amount upon the books of his or her office. After making the estimate, the state treasurer shall immediately send by mail or otherwise a written notice signed by him or her to any of the officers or directors of the corporation, or to any member of a copartnership, or to the party or person, of the amount of the specific tax estimated by him or her as due and payable by the corporation, copartnership, party, or person.

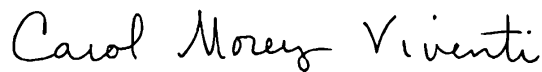
Sec. 4. If, in not less than 40 days after mailing or sending the notice, as provided in section 3, the corporation, copartnership, party, or person refuses or neglects to pay the specific tax so estimated, and no appeal is taken as provided in this act, the state treasurer shall collect the specific taxes in the same manner as is provided in case of failure to pay the taxes after the report required by law has been made, as provided by section 1, and with a like forfeiture of all corporate or chartered rights and privileges in case the property distrained cannot be sold for want of bidders, or is insufficient to pay the tax, and the corporation does not within 30 days of the sheriff's return of the facts, pay the specific tax.

Sec. 5. If a corporation is dissatisfied with the estimate so made by the state treasurer, as provided, it may appeal therefrom to the circuit court for the county of Ingham. The appeal shall be transmitted to the county clerk of the county of Ingham, and a copy to the state treasurer within 30 days after the receiving of the estimate, accompanied with a statement in detail, signed and sworn to by an officer of the corporation in its behalf, or by a member of the copartnership, or by the party or person making the appeal, of the objections to the estimate and the reason why the same should not stand as a charge against the corporation, copartnership, party, or person. The appeal shall also be accompanied by a bond in double the amount of the estimate, with sufficient surety or sureties to be justified before a circuit judge, as to their pecuniary responsibility, and to be approved by him or her, conditioned that such corporation, copartnership, party, or person will prosecute its appeal to effect, and to pay all costs and charges which the court shall award, and also to pay any sum of money which shall appear by the judgment of the court to be due from the corporation, copartnership, party, or person as a specific tax. Upon filing with the clerk of the circuit court of the county of Ingham said appeal, statement and bond, with the approval of the circuit judge evidenced thereon, the court shall proceed to the trial and determination of the appeal, according to the rules of law, allowing a trial by jury of all questions of fact, in cases where a trial may be proper, and questions of law may be carried to the supreme court. Upon the trial of the appeal, the statement and estimate of the state treasurer are prima facie evidence of the amount of the specific tax due and payable by the corporation, copartnership, party, or person. Notice of trial of the appeal shall be served by the corporation upon the attorney general. If 2 regular terms of the court expire after filing the appeal, bond, and statement, and the corporation, copartnership, party, or person has not noticed the same for trial, the appeal, upon motion of the attorney general, shall be dismissed. If the appeal is tried and judgment rendered against the corporation, copartnership, party, or person, execution shall be issued as directed to the sheriff of the county in which the principal office of the corporation or copartnership is located, or in which the party or person may reside, and the sheriff shall proceed to collect the amount of the execution, adding 10 per cent for his or her own fees therein, in a manner like that provided by section 6038 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6038, and pay the revenue over to the state treasurer, within 10 days after the specific taxes are collected.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved

.....
Governor.