

HOUSE BILL No. 5150

December 15, 2015, Introduced by Rep. Poleski and referred to the Committee on Local Government.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 6093 and 6097 (MCL 600.6093 and 600.6097),
section 6097 as amended by 2002 PA 224.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6093. ~~(1) Whenever judgment is recovered against any~~
2 ~~township, village, or city, or against the trustees or common~~
3 ~~council, or officers thereof, in any action prosecuted by or~~
4 ~~against them in their name of office, the clerk of the court shall,~~
5 ~~on the application of the party in whose favor judgment is~~
6 ~~rendered, his attorney, executor, administrator, or assigns, make~~
7 ~~and deliver to the party so applying a certified transcript of the~~
8 ~~judgment, showing the amount and date thereof, with the rate of~~

~~interest thereon, and of the costs as taxed under the seal of the court, if in a court having a seal. The party obtaining the certified transcript may file it with the supervisor of the township, if the judgment is against the township, or with the assessing officer or officers of the city or village, if the judgment is against a city or village. The supervisor or assessing officer receiving the certified transcript or transcripts of judgment shall proceed to assess the amount thereof with the costs and interests from the date of rendition of judgment to the time when the warrant for the collection thereof will expire upon the taxable property of the township, city, or village upon the then next tax roll of such township, city, or village, without any other or further certificate than the certified transcript as a part of the township, city, or village tax, adding the total amount of the judgment to the other township, city, or village taxes and assessing it in the same column with the general township, city, or village tax.~~

~~—— The supervisor or assessing officer shall set forth in the warrant attached to the tax roll each judgment separately, stating the amount thereof and to whom payable, and it shall be collected and returned in the same manner as other taxes. The supervisor or assessing officer, at the time when he delivers the tax roll to the treasurer or collecting officer of any township, city, or village, shall deliver to the township clerk or to the clerk or recording officer of the city or village, a statement in writing under his hand, setting forth in detail and separately the judgment stating the amount with costs and interest as herein provided, and to whom~~

~~payable. The treasurer or collecting officer of the township, city, or village, shall collect and pay the judgment to the owner thereof or his attorney, on or before the date when the tax roll and warrant shall be returnable. In case any supervisor, treasurer, or other assessing or collecting officer neglects or refuses to comply with any of the provisions of this section he shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not more than \$1,000.00 and costs of prosecution, or imprisonment in the county jail for a period not exceeding 3 months, or by both fine and imprisonment in the discretion of the court. Nothing herein contained shall be construed to exclude other remedies given by law for the enforcement of the judgment.~~

~~—— (2) In any case where a judgment is recovered against a village which, by reason of holding no municipal elections, or for any other reason has no available assessing officer within the jurisdiction of the court wherein the judgment is rendered, the owner of the judgment or any person knowing the facts, acting on behalf of the owner, may make an affidavit showing that the village against which a judgment is pending and unsatisfied, has no available assessing officer within the jurisdiction, and file it with the clerk of the court wherein the judgment is written. The officer who makes the certified transcript shall attach thereto a copy of the affidavit, the correctness of which copy shall also be certified to in the certificate. Any party receiving the certified transcript of judgment and affidavit may file it with the supervisor of the township in which the village, having no assessing officer is located. The supervisor shall assess the~~

~~amount of the judgment with costs and interest, upon the taxable property of the village, which is without an assessing officer, and thereafter the same steps and proceedings shall be had in the premises as though it were a judgment against the township within which the village is located, except that it shall be assessed against the property within the corporate limits of the village only.~~

~~—— (3) When judgment is recovered against any county or the board of supervisors or any county officer in an action prosecuted by or against him in his name of office, the judgment unless reversed shall be levied and collected as other county charges, and when collected shall be paid by the county treasurer to the person to whom the judgment has been adjudged upon the delivery of a proper voucher therefor.~~

(1) AFTER A JUDGMENT AGAINST A MUNICIPALITY BECOMES FINAL, THE PLAINTIFF MAY MOVE THE COURT TO ENTER AN ORDER FOR THE PAYMENT OF THE JUDGMENT FROM THE AD VALOREM TAXES ON PROPERTY COLLECTED FOR THE MUNICIPALITY UNDER THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.1 TO 211.155, AS PROVIDED IN THIS SECTION.

(2) ON MOTION BY A PLAINTIFF UNDER SUBSECTION (1), THE COURT SHALL ORDER A LOCAL TAX COLLECTING UNIT THAT COLLECTS TAXES ON PROPERTY FOR THE MUNICIPALITY TO PAY ALL OR PART OF THE JUDGMENT FROM THE TAXES COLLECTED. AN ORDER UNDER THIS SUBSECTION MUST STATE ALL OF THE FOLLOWING:

(A) THE PERSON TO WHOM THE PAYMENTS ARE TO BE PAID. THE COURT MAY ORDER THAT PAYMENTS BE MADE TO THE CLERK OF THE COURT, THE ATTORNEY FOR THE PLAINTIFF, OR THE PLAINTIFF.

1 (B) THE TOTAL AMOUNT TO BE PAID. THE COURT MAY, IN ITS
2 DISCRETION, INCLUDE THE FULL AMOUNT OF THE JUDGMENT, WITH COSTS AND
3 INTEREST, OR LIMIT THE AMOUNT TO BE PAID UNDER THE ORDER TO AN
4 AMOUNT THAT IS LESS THAN THE FULL AMOUNT OF THE JUDGMENT.

5 (C) A DATE ON WHICH THE ORDER EXPIRES AND AN ORDER THAT THE
6 TREASURER OR OTHER COLLECTING OFFICIAL OF THE LOCAL TAX COLLECTING
7 UNIT MAKE PAYMENTS ON THE APPLICABLE SCHEDULE UNDER SECTION 43 OF
8 THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.43, OR ON
9 ANOTHER SCHEDULE AS ORDERED BY THE COURT UNTIL THE TOTAL AMOUNT
10 ORDERED UNDER SUBDIVISION (B) IS PAID OR UNTIL THE DATE THAT THE
11 ORDER EXPIRES, WHICHEVER OCCURS FIRST.

12 (D) IN THE DISCRETION OF THE COURT, AN ORDER THAT THE
13 TREASURER OR OTHER COLLECTION OFFICIAL PAY FROM EACH PAYMENT UNDER
14 SUBDIVISION (C) A CERTAIN AMOUNT OR A PERCENTAGE OF THE PAYMENT TO
15 BE APPLIED TO THE AMOUNT ORDERED UNDER SUBDIVISION (B).

16 (3) THE TREASURER OR OTHER COLLECTING OFFICIAL OF A LOCAL TAX
17 COLLECTING UNIT THAT RECEIVES AN ORDER ISSUED UNDER SUBSECTION (2)
18 SHALL COMPLY WITH THE ORDER. THE TREASURER OR OTHER COLLECTING
19 OFFICIAL SHALL ACCOUNT FOR MONEY PAID IN A WRITTEN REPORT TO THE
20 COURT, TO THE PLAINTIFF'S ATTORNEY, OR, IF THE PLAINTIFF DOES NOT
21 HAVE AN ATTORNEY, TO THE PLAINTIFF, AND TO THE SUPERVISOR OF THE
22 MUNICIPALITY OR ANY OTHER OFFICIAL TO WHOM THE TREASURER OR OTHER
23 COLLECTING OFFICIAL IS REQUIRED TO REPORT THE COLLECTION AND
24 PAYMENT OF THE TAXES UNDER THE GENERAL PROPERTY TAX ACT, 1893 PA
25 206, MCL 211.1 TO 211.155.

26 (4) IF AN ORDER UNDER SUBSECTION (2) PROVIDES FOR THE PAYMENT
27 OF LESS THAN THE FULL AMOUNT OF THE JUDGMENT OR IF THE ORDER

1 EXPIRES AND THE FULL AMOUNT OF THE JUDGMENT HAS NOT BEEN PAID, THE
 2 COURT MAY REQUIRE THE PLAINTIFF TO MAKE A NEW MOTION UNDER
 3 SUBSECTION (1) FOR A NEW ORDER OR MAY ISSUE A SUBSEQUENT ORDER OR
 4 ORDERS WITHOUT THE NECESSITY OF A NEW MOTION BY THE PLAINTIFF.

5 (5) A TREASURER OR OTHER COLLECTING OFFICIAL WHO NEGLECTS OR
 6 REFUSES TO COMPLY WITH THIS SECTION IS GUILTY OF A MISDEMEANOR
 7 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 93 DAYS OR A FINE OF
 8 NOT MORE THAN \$1,000.00, OR BOTH.

9 (6) THIS SECTION DOES NOT AFFECT ANY OTHER REMEDY PROVIDED BY
 10 LAW FOR THE ENFORCEMENT OF THE JUDGMENT.

11 (7) AS USED IN THIS SECTION, "MUNICIPALITY" MEANS A COUNTY,
 12 TOWNSHIP, CITY, OR VILLAGE.

13 Sec. 6097. (1) If a judgment of a court or administrative
 14 agency is rendered against ~~any~~ **A** municipality, the legislative body
 15 of ~~that~~ **THE** municipality, ~~, unless otherwise provided,~~ may issue
 16 certificates of indebtedness or bonds of ~~that~~ **THE** municipality **AS**
 17 **PROVIDED IN THIS SECTION** for the purpose of raising money to pay
 18 the judgment, in an amount not exceeding the sum of the judgment,
 19 the costs and interest on the judgment, and ~~all~~ **THE** cost ~~in~~
 20 ~~connection with~~ **OF** issuing the certificates of indebtedness or
 21 bonds. ~~The~~

22 (2) **A MUNICIPALITY SHALL ISSUE AND SELL** certificates of
 23 indebtedness or bonds ~~shall be sold and issued~~ **UNDER THIS SECTION**
 24 in accordance with the revised municipal finance act, 2001 PA 34,
 25 MCL 141.2101 to 141.2821, except that ~~they~~ **THE CERTIFICATES OR**
 26 **BONDS** may be issued for a period of up to 15 years.

27 (3) ~~(2)~~ The authorization, issuance, and selling of ~~the~~ bonds

1 UNDER THIS SECTION are not subject to section 5(g) of the home rule
2 city act, 1909 PA 279, MCL 117.5.

3 (4) IF THE ISSUANCE OF CERTIFICATES OF INDEBTEDNESS OR BONDS
4 UNDER THIS SECTION WOULD RESULT IN AN INCREASE IN THE TOTAL TAXES
5 LEVIED BY THE MUNICIPALITY, THE MUNICIPALITY SHALL NOT ISSUE THE
6 CERTIFICATES OF INDEBTEDNESS OR BONDS UNLESS THE ISSUANCE HAS BEEN
7 APPROVED BY A VOTE OF THE ELECTORS OF THE MUNICIPALITY.

8 (5) A MUNICIPALITY SHALL NOT ISSUE CERTIFICATES OF
9 INDEBTEDNESS OR BONDS UNDER THIS SECTION IF THE JUDGMENT IS FOR THE
10 RECOVERY OF MONEY PAID FOR A TAX, FEE, OR OTHER ASSESSMENT THAT THE
11 COURT OR AGENCY DETERMINED WAS ILLEGALLY OR IMPROPERLY IMPOSED BY
12 THE MUNICIPALITY.

13 (6) ANY TAXES LEVIED FOR THE PAYMENT OF CERTIFICATES OF
14 INDEBTEDNESS OR BONDS ISSUED UNDER THIS SECTION ARE SUBJECT TO ANY
15 LIMITATIONS IMPOSED BY THE CONSTITUTION OF THIS STATE, INCLUDING,
16 BUT NOT LIMITED TO, LIMITATIONS IMPOSED BY SECTIONS 6 AND 25 TO 34
17 OF ARTICLE IX OF THE STATE CONSTITUTION OF 1963, TO ANY LIMITATIONS
18 APPLICABLE TO TAXES LEVIED BY THE MUNICIPALITY IMPOSED BY STATUTE,
19 AND TO ANY LIMITATIONS IN THE MUNICIPALITY'S CHARTER, IF
20 APPLICABLE.

21 (7) ~~(3)~~—As used in this section, "municipality" means a
22 county, township, city, village, school district, intermediate
23 school district, community college district, metropolitan district,
24 port district, drainage district established under the drain code
25 of 1956, 1956 PA 40, MCL 280.1 to 280.630, or another governmental
26 authority or agency in this state ~~which~~ **THAT** has the power to levy
27 ad valorem property taxes.

1 Enacting section 1. This amendatory act takes effect 90 days
2 after the date it is enacted into law.

3 Enacting section 2. This amendatory act does not take effect
4 unless Senate Bill No.____ or House Bill No. 5151 (request no.
5 03586'15 a *) of the 98th Legislature is enacted into law.