

Legislative Analysis



PERSONAL LIABILITY FOR UNPAID PROPERTY TAXES & SPECIAL ASSESSMENTS

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House Bill 4285 as introduced
Sponsor: Rep. Peter J. Lucido
Committee: Tax Policy
Complete to 3-30-17

REVISED SUMMARY:

House Bill 4285 would amend the General Property Tax Act (MCL 211.47 & 89a) to make the following changes:

- Specify that, notwithstanding any other provision in the General Property Tax Act or charter, a "person" is not subject to personal liability for any unpaid property tax or special assessment unless that person owned or occupied the property at the time the unpaid tax or special assessment became due. A person contesting personal liability may raise the issue in an enforcement action in circuit court regardless of whether the person previously raised the issue with the local board of review or the tax tribunal. (Section 47)
- Extend the provision on personal liability to a section of the act dealing with instances when the City of Detroit brings an *in personam* action to enforce personal liability for unpaid delinquent taxes or special assessments. (Section 89a)

(The term "*in personam*" means, generally speaking "against the person," and refers to an action seeking judgement against a person as distinguished from a judgment against property. Black's Law Dictionary, Fifth Edition.)

Enacting Section

The bill contains an enacting section declaring its provisions retroactive and effective for any unpaid property taxes or special assessments subject to collection on and after the date the bill was enacted into law. The enacting section further states, "However, [the bill] is not intended to affect any final determination, not subject to further appeal, of personal liability in a proceeding or case decided by the Tax Tribunal or a court of this state issued before [the effective date of the bill]."

HB 4285 also would remove references to "a person, firm, or corporation," and instead would use only the term "a person," which the bill then defines as "an individual, partnership, corporation, association, limited liability company, or any other legal entity."

BACKGROUND:

Under Section 47 of the GPTA currently, when a person, firm, or corporation neglects or refuses to pay property taxes, the township or city treasurer (or state treasurer in the case of the State Education Tax) may seize the personal property of that person, firm, or

corporation in an amount sufficient to pay the tax, fees, and charges for subsequent sale of the property. The treasurer may sell the seized property, in an amount sufficient to pay the taxes and charges, at a public auction. The treasurer may also sue the person, firm, or corporation to whom the tax is assessed and garnishee any debtor of that person, firm, or corporation.

FISCAL IMPACT:

The intent of the bill is to prevent a prior owner (or owners) of property from being held personally responsible for property taxes on property that has been transferred to a subsequent owner who is responsible, but that transfer of ownership has gone unrecorded or been misrecorded. Because the affected persons should not be responsible for the tax levies, absolving them from the assessments would have no impact on state or local revenue. Once the proper owner (or owners) is/are identified, the local taxing authorities can then use existing statutes to recover unpaid taxes.

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