

PERSONAL LIABILITY FOR UNPAID PROPERTY TAXES

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House Bill 4285 as enacted
Public Act 189 of 2017
Sponsor: Rep. Peter J. Lucido
House Committee: Tax Policy
Senate Committee: Finance
Complete to 1-8-18

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4285 would amend the General Property Tax Act (MCL 211.47 and 211.89a) to do the following:

- 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 levied on real property unless that person owned the property on the tax day for the year in which the unpaid tax was levied. A person contesting personal liability may raise this issue in an enforcement action in trial court regardless of whether the person previously raised the issue with the local board of review. “Trial court” is defined as any district court, probate court, municipal court, small claims court, appellate court, or other tribunal in which the issue of personal liability is litigated. (Section 47)
- Allow a township or city treasurer, or the state treasurer, to sue a person that did own the property on the tax day for the year in which the unpaid tax was levied and to garnishee any debtor or debtors of that person. (Section 47)
- Extend this provision on personal liability for unpaid taxes 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. (The term “*in personam*” means, generally speaking, “against the person” and refers to an action seeking judgment against a person as distinguished from a judgment against property. *Black’s Law Dictionary*, Fifth Edition.) (Section 89a)

HB 4285 also would remove references to “a person, firm, or corporation” in Section 47 and instead use only the term “person,” which the bill then defines as “an individual, partnership, corporation, association, limited liability company, or any other legal entity.”

Enacting Section

The bill includes 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 is 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 date the bill is enacted into law].”

DISCUSSION:

According to testimony before the House Tax Policy Committee (3-29-17), the bill is meant to address an issue in the city of Detroit in which the city is bringing *in personam* actions to collect unpaid property taxes against individuals who may bear no personal liability for the unpaid taxes, but are named in the suits because they are incorrectly listed as the current owners on the tax assessor's records. That is, an individual may have sold and transferred the property *before* the unpaid tax became due, but still be named and treated as the current owner due to outdated or incorrect assessment records. The bill seeks to clarify that an individual bears personal liability for unpaid property taxes only if the individual owned the property when the unpaid taxes become due and to make this provision clear regarding relevant actions in the city of Detroit.

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, when that transfer of ownership has gone unrecorded or has 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 is (or owners are) identified, the local taxing authorities can then use existing statutes to recover unpaid taxes.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.