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BILL ANALYSIS

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House Bill 4285 (Substitute H-2 as passed by the House)
Sponsor: Representative Peter J. Lucido
House Committee: Tax Policy
Senate Committee: Finance

Date Completed: 9-19-17

CONTENT

The bill would amend the General Property Tax Act to specify that a person would not be subject to personal liability for any unpaid property tax levied on real property unless the person owned the real property on the tax day for the year in which the unpaid tax was levied.

Section 47 of the Act states that, if a person, firm, or corporation neglects or refuses to pay a tax on property assessed to that person, firm, or corporation, the township or city treasurer must, or for the State Education Tax, the State Treasurer may also, collect the tax by seizing the personal property of that person, firm, or corporation in Michigan in an amount sufficient to pay the tax, fees, and charges for subsequent sale of the property. Notwithstanding or in lieu of this provision, the township or city treasurer, or the State Treasurer, may sue the person, firm, or corporation to whom the tax is assessed and garnishee any debtor or debtors of that entity. Under the bill, these provisions would be subject to the following.

The bill specifies that, notwithstanding any other provision in the Act or charter to the contrary, a person would not be subject to personal liability for any unpaid property tax levied on real property unless that person owned the real property on the tax day for the year in which the unpaid tax was levied. A person contesting personal liability could raise the issue in an enforcement action in the trial court regardless of whether the person previously raised the issue with the local board of review. "Trial court" would mean any district court, probate court, municipal court, small claims court, appellate court, or other tribunal in which the issue of personal liability is litigated.

Under Section 89a of the Act, a foreclosure judgment that extinguishes any lien for unpaid taxes or special assessments does not extinguish the right of the city to bring an *in personam* action under the Act or its charter to enforce personal liability for those unpaid taxes or assessments. The city may bring an *in personam* action to enforce personal liability for unpaid delinquent taxes levied before January 1, 2003, or special assessments not returned as delinquent within 15 years after the taxes or special assessments are levied. Under the bill, an *in personam* action brought under the Act or a city's charter to enforce personal liability for unpaid taxes would be subject to the provisions in Section 47 that the bill would add.

(The term "*in personam*" means "against the person". An *in personan* action is an action seeking judgment against a person, rather than a judgment against property.)

Also, throughout Section 47, the bill would refer to "person", instead of "person, firm, or corporation", and would define the term as an individual, partnership, corporation, association, limited liability company, or any other legal entity.

The bill would be retroactive and would be effective for any unpaid property taxes or special assessments subject to collection under the Act on and after the bill's effective date. The bill also states, "However, this amendatory act 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 this amendatory act is enacted into law."

MCL 211.47 & 211.89a

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill should have no fiscal impact on State or local government. The bill would prevent lawsuits against a previous owner of property who had paid property taxes in full and who no longer owned the property when taxes subsequently became delinquent. In addition, the bill would prevent personal liability actions against a person who purchased property after the tax day for which taxes were owed. Under current law, an owner in these situations presumably would be able to demonstrate that he or she did not own the property for the tax years in question and had no personal liability for unpaid taxes related to the property.

However, to the extent that a unit of government currently may be able to recover unpaid property taxes from the assets of a person who did not own the property on the tax day for the year in which the unpaid tax was levied, the bill could reduce revenue collections.

Fiscal Analyst: Elizabeth Pratt

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