

HOUSE BILL No. 5681

April 25, 1990, Introduced by Reps. Nye, Bankes, Law, DeMars, Walberg, Crandall, Emmons, Dolan, Allen, Kulchitsky, Randall, Willis Bullard and Jaye and referred to the Committee on Taxation.

A bill to amend section 25 of Act No. 122 of the Public Acts of 1941, entitled as amended

"An act to establish a revenue division of the department of treasury; to prescribe its powers and duties as the revenue collection agency of the state; to prescribe certain powers and duties of the state treasurer; to create the position and to define the powers and duties of the state commissioner of revenue; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to provide an appropriation; to abolish the state board of tax administration; and to declare the effect of this act,"

as amended by Act No. 58 of the Public Acts of 1986, being section 205.25 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 25 of Act No. 122 of the Public Acts of
2 1941, as amended by Act No. 58 of the Public Acts of 1986, being

1 section 205.25 of the Michigan Compiled Laws, is amended to read
2 as follows:

3 Sec. 25. (1) The commissioner, or an authorized representa-
4 tive of the commissioner, may cause a demand to be made on a tax-
5 payer for the payment of a tax, unpaid account, or amount due the
6 state or any of its departments, institutions, or agencies,
7 subject to administration under this act. If the liability
8 remains unpaid for 10 days after the demand and proceedings are
9 not taken to review the liability, the commissioner or an autho-
10 rized representative of the commissioner may issue a warrant
11 under the official seal of that office. Except as provided in
12 subsection (5), the commissioner or an authorized representative
13 of the commissioner, through any state officer authorized to
14 serve process or through his or her authorized employees, may
15 levy on all property and rights to property, real and personal,
16 tangible and intangible, belonging to the taxpayer or on which a
17 lien is provided by law for the amount of the deficiency, and
18 EXCEPT AS PROVIDED IN SUBSECTION (7), sell the real and personal
19 property of the taxpayer found within the state for the payment
20 of the amount due, the cost of executing the warrant, and the
21 additional penalties and interest. Except as provided in subsec-
22 tion ~~-(6)-~~ (8), the officer or agent serving the warrant shall
23 proceed upon the warrant in all respects and in the same manner
24 as prescribed by law in respect to executions issued against
25 property upon judgments by a court of record. The state, through
26 the commissioner or an authorized representative of the

1 commissioner, may bid for and purchase any property sold pursuant
2 to this section.

3 (2) A person who refuses or fails to surrender any property
4 or rights to property subject to levy, upon demand by the commis-
5 sioner or an authorized representative of the commissioner, is
6 personally liable to the state in a sum equal to the value of the
7 property or rights not surrendered, but not exceeding the amount
8 due for which the levy was made, together with costs and interest
9 on the sum at the rate provided in section 23(2) from the date of
10 the levy. Any amount, other than costs, recovered under this
11 subsection shall be credited against the liability for the col-
12 lection of which the levy was made.

13 (3) In addition to the personal liability imposed by subsec-
14 tion (2), if a person required to surrender property or rights to
15 property fails or refuses to surrender the property or rights to
16 property without reasonable cause, the person shall be liable for
17 a penalty equal to 50% of the amount recoverable under subsection
18 (2), ~~none of which~~ AND THE penalty shall NOT be credited
19 against the liability for the collection of which the levy was
20 made.

21 (4) A person in possession of, or obligated with respect to,
22 property or property rights subject to levy and upon which a levy
23 has been made who, upon demand of the commissioner or an autho-
24 rized representative of the commissioner, surrenders the property
25 or rights to property, ~~or~~ discharges the obligation to the com-
26 missioner or an authorized representative of the commissioner, or
27 ~~who~~ pays a liability under subsection (1) shall have his or her

1 obligation to a person delinquent in payment of a tax or other
2 account reduced in an amount equal to the property or rights to
3 property surrendered or amounts paid to the state.

4 (5) ~~There shall be~~ THE FOLLOWING ARE exempt from levy
5 under this section:

6 (a) For an unpaid tax, the type of property and the amount
7 of that property as provided in section 6334 of the internal rev-
8 enue code.

9 (b) For an unpaid account, or amount due the state or any of
10 its departments other than an unpaid tax, disposable earnings to
11 the extent provided in section 303 of the consumer credit protec-
12 tion act, 15 U.S.C. 1673.

13 (6) ~~(c)~~ The effect of a levy on salary or wages ~~shall be~~
14 IS continuous from the date the levy is first made until the
15 liability out of which the levy arose is satisfied.

16 (7) IF THE COMMISSIONER OR AN AUTHORIZED REPRESENTATIVE OF
17 THE COMMISSIONER LEVIES ON TANGIBLE PERSONAL PROPERTY UNDER
18 SUBSECTION (1) THAT DEPICTS, DESCRIBES, OR IS USED IN SEXUAL CON-
19 DUCT IN ANY WAY, WHETHER OFFENSIVE OR NOT, THE COMMISSIONER SHALL
20 PROVIDE FOR THE DETERMINATION OF THE MARKET VALUE OF THAT PROP-
21 ERTY AND THEN PROVIDE FOR THE DESTRUCTION OF THAT PROPERTY. THE
22 AMOUNT OF THE DETERMINED MARKET VALUE SHALL BE CREDITED AGAINST
23 THE LIABILITY FOR THE COLLECTION OF WHICH THE LEVY WAS MADE. AS
24 USED IN THIS SUBSECTION, "SEXUAL CONDUCT" MEANS THAT TERM AS
25 DEFINED IN SECTION 4 OF ACT NO. 343 OF THE PUBLIC ACTS OF 1984,
26 BEING SECTION 752.364 OF THE MICHIGAN COMPILED LAWS. THE
27 DEPARTMENT SHALL PROMULGATE RULES PURSUANT TO THE ADMINISTRATIVE

1 PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969,
2 BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS, AS
3 NECESSARY TO IMPLEMENT THIS SECTION.

4 (8) ~~-(6)-~~ A warrant-notice of levy may be served by certi-
5 fied mail, return receipt requested, on any person in possession
6 of, or obligated with respect to, property and rights to proper-
7 ty, real and personal, tangible and intangible, belonging to the
8 taxpayer or on which a lien is provided by law. The date of
9 delivery on the receipt shall be the date the levy is made. A
10 person may, upon written notice to the commissioner, have all
11 notices of levy by mail sent to 1 designated office.