



Jana R. Vawter

Bill Analysis
Legislative Service Commission

H.B. 437

123rd General Assembly
(As Introduced)

**Reps. Verich, Sykes, Pringle, Hartnett, Allen, Krebs, Barrett, Patton,
Flannery, Distel, Barnes, Gerberry, Sulzer**

BILL SUMMARY

- Requires that judgment liens provide the judgment debtor's Social Security Number, Ohio Taxpayer Identification Number, driver's license number and the state that issued the license, or a Federal Employer Identification Number.
- Provides that tax liens against shares of stock held for shareholders by dealers in intangibles set forth Social Security Numbers, Ohio Taxpayer Identification Numbers, driver's license numbers and the state that issued the license, or Federal Employer Identification Numbers.
- Specifies that tax assessments and judgments under the Income Tax Law set forth Social Security Numbers, Ohio Taxpayer Identification Numbers, driver's license numbers and the state that issued the license, or Federal Employer Identification Numbers.
- Requires that liens under the Workers' Compensation Law and the Unemployment Compensation Law specify an employer's Federal Employer Identification Number.
- Requires the filing of an affidavit if specified identifying information is unavailable, and states the legal effect if this information is not provided or is erroneously provided in assessments or liens under the Tax Law or Execution Against Property Law.

CONTENT AND OPERATION

Liens against property under the Execution Against Property Law

(sec. 2329.02)

Current law

Current law provides that if a judgment or decree is rendered by a federal or state court, the judgment or decree represents a "lien upon lands and tenements of each judgment debtor" in the county where the certificate of judgment is filed. Existing law specifies that a certificate of judgment be filed in the clerk's office of a court of common pleas within the county where the judgment is rendered and provide the (1) name of court rendering the judgment, (2) title and number of the action, (3) names of the judgment creditors and debtors, (4) amount of the judgment and costs, (5) rate of interest and the date from which it accrues, (6) date of judgment, and (7) volume and page of the journal entry of the judgment.

Existing law also prohibits a judgment or decree from being a lien on lands until the certificate, under the seal of the clerk of court, or a certified copy of the judgment, is filed and noted by a county recorder of the county in which the land is located and a memorial of the lien is entered upon the last certificate of title of the land. The certificate or certified copy of the judgment must state the (1) date and purport of the judgment, (2) case number, (3) plaintiffs and defendants involved, and (4) volume and page number of the journal or record entered upon.

The bill

The bill adds that judgment liens filed with the clerk of a common pleas court of the county in which the judgment is rendered or filed with a county recorder also must include the following with respect to the person or entity against whom the lien is filed: (1) Social Security Number, (2) Ohio Taxpayer Identification Number, (3) driver's license number and the state that issued the license, or (4) the Federal Employer Identification Number. However, the bill also specifies that if the person or entity against whom the lien is filed does not have the information described in (1) through (4) of this paragraph, the party seeking to file the judgment lien must provide an affidavit stating that the information does not exist. This affidavit is to be provided at the time of filing the judgment lien.

In addition, the bill provides that failure to disclose or in good faith to disclose incorrect information described in (1) through (4) of the preceding paragraph does not adversely affect or impair the lien created upon filing of the judgment.

Collection of personal property taxes from dealers in intangibles

(sec. 5719.13)

Current law, unaffected by the bill, provides that taxes on shares of stock due from shareholders are to be collected and paid by each dealer in intangibles holding those shares of stocks for the shareholders. The Treasurer of State has a lien against these shares for taxes due until the taxes are paid.

The bill provides that when a lien is filed against shares of stock held for shareholder-individuals by a dealer in intangibles, the lien must include the individual's (1) Social Security Number, (2) Ohio Taxpayer Identification Number, or (3) driver's license number and state of issue of the license. In the case of a lien filed against a shareholder that is an entity, the lien must provide the entity's Federal Employer Identification Number.

The bill also provides, in a similar manner to the provisions relative to the filing of judgment liens discussed above, that (1) if the person or entity against whom the lien is filed does not have the information described in the preceding paragraph, the party seeking to file the tax lien must provide an affidavit at the time of filing the tax lien stating that the information does not exist, and (2) failure to disclose or in good faith to disclose incorrect information described in the preceding paragraph does not adversely affect or impair the lien created upon filing of the judgment.

Assessment for failure to file or pay Ohio income taxes

(sec. 5747.13)

Existing law, unaffected by the bill, provides that a certified copy of a tax assessment made final by the Tax Commissioner's entry for failing to file an income tax return or to pay withheld income taxes or income taxes due the state may be filed against an employer, taxpayer, or qualifying entity with the clerk of common pleas court in the county where the assessed party's place business is located or in the county in which the assessed party resides. If the assessed party is not an Ohio resident, the assessment may be filed in Franklin County with the clerk of common pleas court.

If a final assessment is filed against an individual, the bill provides that it must set forth the individual's (1) Social Security Number, (2) Ohio Taxpayer Identification Number, or (3) driver's license number and state of issue of the license. In the case of an assessment filed against an entity, the assessment must provide the entity's Federal Employer Identification Number.

In addition, similar to the provisions discussed above, (1) if the person or entity against whom the lien is filed does not have the information described in the preceding paragraph, the party seeking to file the judgment must provide an affidavit at the time of filing the assessment stating that the information does not exist, and (2) failure to disclose or in good faith to disclose incorrect information described in the preceding paragraph does not adversely affect or impair the judgment assessed against that party created upon filing of the judgment.

Liens under Workers' Compensation Law

(secs. 4123.76 and 4123.78)

Current law

Under current law, unaffected by the bill, if an application or application for an extension of workers' compensation or benefits is made against an employer and that employer has not complied with the Workers' Compensation Law, including the requirement that an employer pay premiums into the Workers' Compensation Insurance Fund, the Bureau of Workers' Compensation must file an *affidavit* against the employer. The county recorder of a county in which the employer's property is located is to file the affidavit, and the filed affidavit constitutes a lien against the employer's "real property and tangible personal property" located in that county.

Existing law specifies that the affidavit set forth (1) the date the application for benefits was made to the Industrial Commission or Bureau of Workers' Compensation, (2) the employer's name and address, and (3) the fact that the employer has not complied with the Workers' Compensation Law.

Current law also provides that if an employer has not complied with the Workers' Compensation Law, the Administrator of Workers' Compensation must file with the county recorder in any county where that employer's property is located a *certificate* specifying the amount of Workers' Compensation Insurance Fund premium due from that employer. Existing law provides that this amount represents a lien upon "real property and personal property" of the employer in that county.

The bill

Under the bill, in addition to the information required to be supplied under existing law with respect to an affidavit creating a lien, the affidavit also must specify the employer's Federal Employer Identification Number. And any certificate filed by the Administrator of Workers' Compensation creating a lien for any Workers' Compensation Insurance Fund premium due also must specify the

employer's Federal Employer Identification Number, in addition to the amount of the premium due as required by current law.

Liens under Unemployment Compensation Law

(sec. 4141.23)

Currently, if an employer fails to make contributions to the Ohio Unemployment Compensation Fund, the employer is subject to interest on amounts due, forfeitures, and fines. Unpaid amounts representing contributions due, interest, forfeitures, or fines also represent a lien upon the personal or real property of the employer. Notice of this lien must be filed by the Administrator of the Bureau of Employment Services with the county recorder of a county in which that employer owns real or personal property.

The bill adds that the filed lien also must set forth the employer's Federal Employer Identification Number.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	09-14-99	p. 1215

H0437-I.123/rss