# Ohio Legislative Service Commission

## Bill Analysis

Mackenzie Damon

# S.B. 29

130th General Assembly
(As Introduced)

**Sen.** Schaffer

## BILL SUMMARY

- Authorizes a landlord who has obtained a judgment against a current or former tenant for breach of a residential rental agreement to sue the state to recover an income tax refund due or that might become due to the tenant if the tenant does not have sufficient real or personal property to satisfy the judgment.
- Grants exclusive jurisdiction to the Franklin County Court of Common Pleas to hear the suit.
- Provides that an order that entitles the landlord to all or a part of a tenant's tax refund is a continuing order and is effective until the earlier of four years after the date of the order or the date the judgment is satisfied.

## CONTENT AND OPERATION

### Action to recover income tax refund

Under current law, when a judgment debtor does not have sufficient personal or real property to satisfy a judgment, any equitable interest that the judgment debtor has in various types of property, including real estate as a mortgagor or mortgagee, or any interest in a banking, turnpike, bridge, or other joint-stock company, is subject to the payment of the judgment by action. The bill provides that an income tax refund due or that might become due to the judgment debtor under R.C. 5747.11 is also subject to the payment of the judgment by action.[1]

[1] R.C. 2333.01.

Current law also provides that only the state may intercept an individual's state income tax refund for purposes of satisfying a debt. In general, the state may apply an individual's income tax refund against any past due debt the individual owes to the state.[2] The state may also apply an individual's income tax refund to satisfy past-due child support or to recoup overpayments of public assistance and child support.[3]

The bill authorizes, under certain circumstances, a landlord who has obtained a judgment against a current or former tenant for breach of a residential rental agreement to sue the state to recover the tenant's income tax refund. The landlord may sue the state only if the tenant does not own sufficient nonexempt, unencumbered property subject to execution to satisfy the judgment. The bill requires the landlord to bring the action in the Franklin County Court of Common Pleas, and it subordinates the landlord's rights to those of the state to apply the refund against the claims listed in R.C. 5747.12 (tax, workers' compensation premium, unemployment compensation contribution, certified claim, or specified fee due to the state), 5747.121 (collection of overdue child support payments), 5747.122 (collection of overpayments of public assistance), and 5747.123 (collection of overpayments of child support).

The bill provides that a court order directing the Tax Commissioner to pay all or part of a tenant's refund to the landlord remains effective until the earlier of the date the judgment is satisfied or four years after the date of the order. If an order has been issued and is effective, within three days after the judgment is satisfied the landlord must file a satisfaction of judgment with the Clerk of Court and serve a time-stamped copy of the satisfaction of judgment upon the Tax Commissioner by certified mail.[4]

## HISTORY

| ACTION | DATE |
|---|---|
| Introduced | 02-12-13 |

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[2] R.C. 5747.12, not in the bill.

[3] R.C. 5747.121, 5747.122, and 5747.123, not in the bill.

[4] R.C. 5747.124.