

CHAPTER XXI

STATE TAX LIENS



STANDARD 21.1

STATE TAX LIEN FOR TAXES ADMINISTERED BY MICHIGAN DEPARTMENT OF TREASURY

STANDARD: A LIEN FOR A TAX ADMINISTERED BY THE MICHIGAN DEPARTMENT OF TREASURY UNDER 1941 P.A. 122, BEING MCL 205.1 THROUGH 205.31, TOGETHER WITH INTEREST AND PENALTIES:

- (A) ATTACHES TO REAL PROPERTY AND RIGHTS TO REAL PROPERTY, INCLUDING AFTER-ACQUIRED PROPERTY, OF ANY PERSON LIABLE FOR THE TAX FROM THE DATE THAT A REPORT OR RETURN ON WHICH THE TAX IS LEVIED WAS REQUIRED TO BE FILED WITH THE DEPARTMENT OF TREASURY;**
- (B) IS A FIRST LIEN UPON THE REAL PROPERTY AND RIGHTS TO REAL PROPERTY OF THE DELINQUENT TAXPAYER, EXCEPT FOR BONA FIDE LIENS RECORDED BEFORE THE DATE OF RECORDING OF THE NOTICE OF TAX LIEN; HOWEVER, BONA FIDE LIENS RECORDED BEFORE THE NOTICE OF TAX LIEN IS RECORDED TAKE PRECEDENCE ONLY TO THE EXTENT OF DISBURSEMENTS MADE UNDER A FINANCING ARRANGEMENT BEFORE THE 46TH DAY AFTER THE DATE OF THE TAX LIEN RECORDING, OR BEFORE THE PERSON MAKING THE DISBURSEMENTS HAD ACTUAL KNOWLEDGE OF A TAX LIEN RECORDING UNDER THE ACT, WHICHEVER IS EARLIER;**

- (C) IS NOT VALID AGAINST A PERSON WHO BECOMES A MORTGAGEE, PLEDGEE, PURCHASER, INCLUDING A CONTRACT PURCHASER, OR JUDGMENT CREDITOR BEFORE THE RECORDING OF NOTICE OF THE TAX LIEN IN THE OFFICE OF THE REGISTER OF DEEDS FOR THE COUNTY IN WHICH THE REAL PROPERTY IS LOCATED; AND
- (D) CONTINUES FOR SEVEN YEARS AFTER THE DATE OF ATTACHMENT; THE LIEN MAY BE EXTENDED ANOTHER SEVEN YEARS BY REFILEING PURSUANT TO THE ACT.

Authorities: MCL 205.29, 211.682, 211.686 and 16.183.

Comment: The State Tax Lien Registration Act provides that a person who becomes a “mortgagee, pledgee, purchaser, including contract purchaser, or judgment creditor” has priority over a state tax lien for which no notice of lien has been recorded. MCL 211.686. The Act does not define these terms, but it has been held that “the statutory definition of purchaser in 26 USC 6323(h)(6) reflects the intent of our Legislature in enacting MCL 211.686” *Department of Treasury v Campbell*, 107 Mich App 561, 309 NW2d 668 (1981), *lv den*, 413 Mich 935 (1982).

Note: With respect to state tax liens arising under the Michigan Employment Security Act, see Standard 21.2.

STANDARD 21.2

STATE TAX LIEN UNDER MICHIGAN EMPLOYMENT SECURITY ACT

STANDARD: THE LIEN FOR TAXES UNDER THE MICHIGAN EMPLOYMENT SECURITY ACT:

- (A) ATTACHES TO REAL PROPERTY AND RIGHTS TO REAL PROPERTY OF A DELINQUENT EMPLOYING UNIT FROM THE DATE THAT A REPORT UPON WHICH THE SPECIFIC TAX IS COMPUTED WAS REQUIRED TO BE FILED WITH THE MICHIGAN UNEMPLOYMENT INSURANCE AGENCY;**
- (B) IS A FIRST LIEN UPON THE REAL PROPERTY AND RIGHTS TO REAL PROPERTY OF THE DELINQUENT EMPLOYING UNIT, BUT IS NOT VALID AGAINST LIENS AND ENCUMBRANCES RECORDED BEFORE THE RECORDING OF NOTICE OF THE TAX LIEN IN THE OFFICE OF THE REGISTER OF DEEDS FOR THE COUNTY IN WHICH THE REAL PROPERTY IS LOCATED; AND**
- (C) CONTINUES UNTIL THE LIABILITY, OR A JUDGMENT FOR THE TAX, IS SATISFIED, OR UNTIL THE LIEN BECOMES UNENFORCEABLE BECAUSE OF LAPSE OF TIME.**

Authority: MCL 421.15(e).

Note: With respect to state tax liens for taxes administered by the Michigan Department of Treasury, see Standard 21.1.

