

AB 244 20

Assembly Hearing Slip

(Please print plainly)

Date: 7/25/01

Bill No. AB 244

Or Subject Tax Waivers/Items

(Name) Duane Wunsch

(Street Address or Route Number) 2511 North 124th St

(City & Zip Code) Brookfield, Wis 53001

(Representing) Wis Land Title Assn

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms:
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 7-25-01

Bill No. AB 244

Or Subject _____

(Name) Pete Christianson

(Street Address or Route Number) 1 S. Pinckney Suite 600

(City & Zip Code) MSU, WI 53301-2113

(Representing) Wis. Land Title Assoc.

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms:
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 7/25/01

Bill No. AB 244

Or Subject _____

(Name) Rep Timothy Johnson

(Street Address or Route Number) 1030 West Capitol

(City & Zip Code) Madison

(Representing) _____

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms:
Room 411 West
State Capitol
Madison, WI 53702

Ways & Means Committee
Preliminary Report on Referred Legislation
July 25, 2001

Bill: AB 244
Author: Rep. M. Lehman
Date Referred: 03-26-2001
Public Hearing: 07-25-2001
Executive Session: N/A

Relating Clause: tax warrants and liens on property.

Comments from Department of Revenue-

comments. *None -> They are "fine" with it (Durada)*

Comments from the Author-

Author's reasoning for introducing legislation:

comments. *Setting a time limit ~~that~~ simplifies title insurer's job b/c they no longer would have to search back more than 20yrs*

Author's intent:

comments. *Any tax lien lasts for 20yrs then must be renewed*

Does the Author want the legislation moved forward?

Yes No

If no, do we have this in writing?

Yes No

Is the legislation in its final form?

Yes No

If major changes are required, the author shall prepare and introduce the necessary amendments.

A0578 ← Hidden priority -> the lien would not appear.

Notes-

comments.

Created by Andrew Nowlan

Get copy of amend to committee members

Assembly Republican Majority

Bill Summary

AB 244: Duration of State Tax Warrants

Relating to: tax warrants and liens on property.

By Representatives M. Lehman, Ward, Sykora, Meyerhofer, Petrowski, Urban and Hahn.

Date: October 30th, 2001

BACKGROUND

Under current law, if a person fails to pay any income or franchise tax to the state for which they are liable, a lien is placed on the person's property in the amount of the tax due. This lien remains in place until the tax due is satisfied. To enforce this lien, the Department of Revenue (DOR) must file a tax warrant with the circuit court clerk in the county where the person's property is located. The clerk charges the DOR a fee to file the warrant.

SUMMARY OF AB 244 AS AMENDED BY COMMITTEE

Under AB 244, a lien placed on a person's property for failure to pay tax due expires after 20 years or the person pays the tax due, whichever is first. The DOR may renew the lien by filing a new tax warrant with the circuit court clerk. The renewed lien also has a 20-year expiration period. There is no fee for renewing the tax warrant.

AMENDMENTS

Assembly Amendment 1 makes two changes to AB 244. The first change clarifies when the renewed warrant must be filed. The amendment changes the renewal period from "within 6 months" of the expiration date to "no earlier than 180 days prior" to the expiration date and "no later than" the expiration date.

The second change made by AA1 clarifies when a renewed tax lien takes effect. The bill was unclear as to whether the renewed tax lien takes effect when the renewed warrant was filed or when the preceding lien expires. The amendment clarifies that the renewed lien takes effect on the date of expiration of the preceding lien.

FISCAL EFFECT

A fiscal estimate prepared by the Department of Revenue indicates that there would be an increase in costs at the state level but that those costs could be absorbed within the agency's current budget.

PROS

1. This bill will simplify the process of title searches, as a person performing a title search will not need to search back more than 20 years.

CONS

No potential detrimental effects of this legislation were discovered during the committee process.

SUPPORTERS

Rep. Michael Lehman, author; Wisconsin Land Title Association.

OPPOSITION

There are no registrations in opposition to this legislation.

HISTORY

Assembly Bill 244 was introduced on March 26th, 2001, and referred to the Assembly Committee on Ways & Means. A public hearing was held on July 25th, 2001. On September 5th, 2001, the Committee voted 12-0 [Representative Jeskewitz absent] to recommend passage of AB 244 as amended.

CONTACT: Andrew Nowlan, Office of Rep. Michael Lehman

MEMORANDUM

TO: Rep. Michael Lehman

FROM: Pete Christianson, for the Wisconsin Land Title Association

RE: Assembly Bill 244 - Duration of State Tax Warrants

DATE: May 24, 2001

Thank you very much for arranging for the drafting and introduction of Assembly Bill 244. The purpose of the bill is to provide a set period of time during which state tax warrants are effective and to provide the means by which such warrants may be renewed. The drafting instructions for the bill were provided to you by the Department of Revenue and were developed by the Department in consultation with the Wisconsin Land Title Association.

When a person who is liable to pay any income or franchise tax fails to do so, the amount of the unpaid tax becomes a lien upon the property which that person owes. The lien remains in effect until the person pays the amount of the unpaid tax. In order to enforce its lien, the Department of Revenue must file a tax warrant in the county in which the property is located. The Clerk of Court in the county files the warrant and enters it in the county's judgment and lien docket.

Many judgment and lien debtors do not automatically pay what they owe following the rendering of a judgment and the entry of a lien. The law directs the County Sheriff to seize the property of the judgment debtor and sell it to pay off the unpaid tax, when requested to do so. The Department of Revenue does not routinely request that a Sheriff's sale occur, preferring instead to leave the lien on the record and wait for the property to be sold, at which time the liens and other encumbrances are cleared. (The amount needed to pay off the mortgages and liens against the property is deducted from the amount due the seller at closing.)

The Department of Revenue and Wisconsin title insurers disagree over the length of time that an outstanding tax warrant can be enforced. The Department of Revenue believes that such warrants never expire and cites a relatively recent statutory change as the basis for this belief. Title insurers note that civil judgment liens and federal tax liens may only be enforced for 10 years. Both judgment liens and federal tax liens can be renewed at the lien holder's expense for additional 10 year periods. This means that a title insurer need never look back more than 10 years for such liens. Title insurers believe it is reasonable to provide a similar effective period for state tax warrants.

As noted above, the Department of Revenue and the Wisconsin Land Title Association

agreed to support legislation which would provide a 20 year period of effectiveness for state tax warrants as well as provide that such warrants could be renewed at expiration. The change would be effective for state tax warrants filed after the effective date of the act.

The bill does need a simple amendment to provide a time frame in which the renewal must occur. The amendment should require that the renewal occur prior to the end of the 20 year period, preferably within the last six months. There are two major problems with the bill if such an amendment is not added:

1. If renewal is permitted to occur after expiration of the 20 year effective period, a title insurer which makes a title commitment after the expiration of the warrant but before its renewal will not find the warrant, since it will have already expired. Title commitments are made in contemplation of the sale or refinancing of the property.
2. The bill provides that a renewed lien "retains its priority for payment under the original warrant." This means that the lien would have "hidden priority" for a period of up to six months after its expiration. This would create major problems for the new owner or the new lender, since the renewed lien would have priority over the buyer as well as the new lender. For example, assume that Assembly Bill 244 took effect on January 1, 2002, and that a state tax warrant was filed on January 15, 2002. That warrant would expire on January 15, 2022, but could be renewed until July 15, 2022. If the property was sold on June, 15, 2022, the state tax warrant would not appear on the record but could be "revived" and would have priority status over both the new owner as well as the new lender.

For these reasons it is essential to require the renewal to occur prior to expiration of the warrant.

Again, the members of the Wisconsin Land Title Association appreciate your assistance with the drafting and introduction of Assembly Bill 244. Please let me know if you have any questions about the bill.

MEMORANDUM

TO: Members of the Assembly Committee on Ways and Means

FROM: Pete Christianson, for the Wisconsin Land Title Association

RE: Assembly Bill 244 - Duration of State Tax Warrants

DATE: July 25, 2001

The members of the Wisconsin Land Title Association strongly support Assembly Bill 244, with a simple amendment which is explained in this memorandum. The purpose of the bill is to provide a set period of time during which state tax warrants are effective and to provide the means by which such warrants may be renewed. The drafting instructions for the bill were provided by the Department of Revenue and were developed by the Department in consultation with the Wisconsin Land Title Association.

When a person who is liable to pay any income or franchise tax fails to do so, the amount of the unpaid tax becomes a lien upon the property which that person owes. The lien remains in effect until the person pays the amount of the unpaid tax. In order to enforce its lien, the Department of Revenue must file a tax warrant in the county in which the property is located. The Clerk of Court in the county files the warrant and enters it in the county's judgment and lien docket.

Many judgment and lien debtors do not automatically pay what they owe following the rendering of a judgment and the entry of a lien. The law directs the County Sheriff to seize the property of the judgment debtor and sell it to pay off the unpaid tax, when requested to do so. The Department of Revenue does not routinely request that a Sheriff's sale occur, preferring instead to leave the lien on the record and wait for the property to be sold, at which time the liens and other encumbrances are cleared. (The amount needed to pay off the mortgages and liens against the property is deducted from the amount due the seller at closing.)

The Department of Revenue and Wisconsin title insurers disagree over the length of time that an outstanding tax warrant can be enforced. The Department of Revenue believes that such warrants never expire and cites a relatively recent statutory change as the basis for this belief. Title insurers note that civil judgment liens and federal tax liens may only be enforced for 10 years. Both judgment liens and federal tax liens can be renewed at the lien holder's expense for additional 10 year periods. This means that a title insurer need never look back more than 10 years for such liens. Title insurers believe it is reasonable to provide a similar effective period for state tax warrants.

As noted above, the Department of Revenue and the Wisconsin Land Title Association agreed to support legislation which would provide a 20 year period of effectiveness for state tax warrants as well as provide that such warrants could be renewed at expiration. The change would be effective for state tax warrants filed after the effective date of the act.

The bill does need a simple amendment to provide a time frame in which the renewal must occur. The amendment should require that the renewal occur prior to the end of the 20 year period, preferably within the last six months. There are two major problems with the bill if such an amendment is not added:

1. If renewal is permitted to occur after expiration of the 20 year effective period, a title insurer which makes a title commitment after the expiration of the warrant but before its renewal will not find the warrant, since it will have already expired. Title commitments are made in contemplation of the sale or refinancing of the property.
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For these reasons it is essential to require the renewal to occur prior to expiration of the warrant.

Again, the members of the Wisconsin Land Title Association strongly support Assembly Bill 244 with the amendment described above. Please let me know if you have any questions about the bill.



Michael (Mickey)
Lehman

State Representative

58th Assembly District

Committee Chair: Ways and Means

Memorandum

To: Members, Assembly Ways and Means Committee

From: Rep. Mickey Lehman

Date: August 14th, 2001

Re: Assembly Bill 244

Attached please find a copy of a letter from the Department of Revenue regarding Assembly Bill 244, which received a public hearing before the Ways & Means Committee on July 25th, 2001.



State of Wisconsin • DEPARTMENT OF REVENUE

2135 RIMROCK ROAD • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933 • 608-266-6466 • FAX 608-266-5718 • <http://www.dor.state.wi.us>

Scott McCallum
Governor

Richard G. Chandler
Secretary of Revenue

August 9, 2001

The Honorable Michael Lehman
Wisconsin Assembly
Room 103 West, State Capitol
Madison, WI 53702

Dear Representative Lehman:

Several questions were raised at the Ways and Means Committee hearing on Assembly Bill (AB) 244 on Wednesday, July 25, 2001. This letter is intended to provide answers to those questions.

The current language of AB 244 would allow the Department of Revenue to renew its liens up to six months after the original expiration. There was concern from the Committee that this could create problems if a title search was done during that six-month lapse. The Department has no objection to an amendment that requires us to renew the lien prior to expiration.

Issues were also raised regarding records maintenance, particularly clerk of courts' responsibility for retention of records on older liens. Section 59.40(2)(e) of the Wisconsin Statutes assigns the Clerk of Circuit Court the responsibility to:

"Keep a judgment and lien docket of all money judgments of the court, transcripts from judgment and lien dockets of other Wisconsin courts and of federal courts, warrants for unemployment insurance and warrants for delinquent Wisconsin income or franchise taxes."

The Supreme Court issues rules that specify how Clerks of Circuit Court are to retain these records. Additionally, the Department maintains its own records of all liens that have been filed and would retain these indefinitely in our Delinquent Tax System. When a tax lien is satisfied, a notice of satisfaction document is filed with the clerk of court.

A question was also raised as to whether the Department did any publicity to clerks of court regarding the statutory change in 1981 which made the Department's liens effective indefinitely. There is no record of any formal communication from the Department; however, employees from that era fielded many contacts from title companies and clerks, so the change appears to have been common knowledge.

I hope this answers the questions raised by the Committee. We would be happy to review any further concerns. If there is any more information I can provide, please let me know.

Sincerely,

Tom Ourada
Executive Assistant

TO:VRS:ms

Nowlan, Andrew

From: Gates-Hendrix, Sherrie
Sent: Wednesday, October 31, 2001 11:38 AM
To: Nowlan, Andrew
Subject: FW: AB 244

Andrew - See Vicki Siekert's comments below. Vicki is the head of our delinquent tax section. Feel free to talk to her directly too if you'd like.

Sherrie

-----Original Message-----

From: Siekert, Vicki R
Sent: Wednesday, October 31, 2001 11:41 AM
To: Gates-Hendrix, Sherrie
Cc: Ourada, Thomas D
Subject: RE: AB 244

We already do this. If a liability is paid in full we issue a **satisfaction** to the clerk. The fact that there was a lien and that it was later satisfied remains on the records of the clerk. If we discover that a lien was issued in error (for example, the payment crossed in the mail with the lien-filing), we issue a **withdrawal** to the clerk. This is supposed to expunge any record of the lien filing from the clerk's office. See 71.91(5)(g).

-----Original Message-----

From: Gates-Hendrix, Sherrie
Sent: Wednesday, October 31, 2001 11:24 AM
To: Siekert, Vicki R
Cc: Ourada, Thomas D
Subject: FW: AB 244

Vicki - could you comment on this?

-----Original Message-----

From: Nowlan, Andrew
Sent: Wednesday, October 31, 2001 10:50 AM
To: Ourada, Thomas D
Cc: Gates-Hendrix, Sherrie
Subject: AB 244

Tom,

Mickey wanted me to inquire with the Department regarding a concern Sheryl Albers brought up regarding ab244. Her issue deals with when the Department sends notice to a county clerk that a lien is satisfied, if it is possible that with that notice, information be provided as to how the lien was satisfied. If the lien is satisfied because the taxpayer paid the tax due, the notice would indicate that fact. Further, if it is learned that a lien is placed on property in error, that when the error is corrected, that the notice indicate that the lien was as a result of an error made by the Department, not that the individual failed to pay their taxes.

Is this something that can be done?

Thanks,

Andrew Nowlan
Rep. Michael Lehman's Office
Andrew.Nowlan@legis.state.wi.us
Furlakes_99@yahoo.com

Nowlan, Andrew

From: Siekert, Vicki R
Sent: Thursday, November 01, 2001 2:20 PM
To: Nowlan, Andrew
Cc: Gates-Hendrix, Sherrie
Subject: RE: AB 244

I'm not sure that I can envision a situation that would meet these conditions. However, if there was a valid liability that the taxpayer did not pay until after the warrant was filed, I believe we would issue a satisfaction, even if some portion of the amount the warrant was filed for was not actually due. Please note that warrants are filed on a liability-by-liability basis rather than covering the entirety of a taxpayer's delinquent balance, so I'm not sure how realistic the situation you describe is.

-----Original Message-----

From: Nowlan, Andrew
Sent: Thursday, November 01, 2001 1:58 PM
To: Siekert, Vicki R
Subject: FW: AB 244

Hi Vicki,

Just a follow-up to my e-mail that you replied to regarding AB 244. Now, Rep. Albers wants to know what would happen in a situation where the taxpayer is partly at fault and Revenue is partly at fault. How would it appear then? (great question isn't it????)

Thanks again for your help. I'm sure Sheryl will be eternally grateful.

Andrew

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From: Gates-Hendrix, Sherrie
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To: Nowlan, Andrew
Subject: FW: AB 244

Andrew - See Vicki Siekert's comments below. Vicki is the head of our delinquent tax section. Feel free to talk to her directly too if you'd like.

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Is this something that can be done?

Thanks,

Andrew Nowlan
Rep. Michael Lehman's Office
Andrew.Nowlan@legis.state.wi.us
Fourlakes_99@yahoo.com

Kraak, Maureen

From: Barman, Mike
Sent: Monday, April 09, 2001 11:26 AM
To: Rep.Lehman
Subject: FE to AB-244 <01-2269feDORorg>
Sensitivity: Confidential

State of Wisconsin

Legislative Reference Bureau
100 North Hamilton Street
5th Floor
P.O. Box 2037
Madison, WI 53701-2037

Your copy of the fiscal estimate is attached
and is submitted to you as the primary author of this bill.

2001 Fiscal Estimate to: AB-244

LRB Number: 01-2269/1

Agency/Prepared By: DORorg

*Under Joint Rule 48, the fiscal estimate must be held in the Legislative Reference Bureau for
5 working days unless its earlier publication is authorized by you.*

During this time, the committee cannot hold its public hearing on the bill.

*** Release Date: 04/17/2001**

*The attached fiscal estimate will be released to the Chief Clerk for insertion in the bill jacket, to
the*

*Fiscal Bureau and to DOA for printing on the date listed above. If you have questions about the
attached fiscal estimate, you may contact the agency/individual who prepared the fiscal estimate.
If you disagree with the attached fiscal estimate, please contact the LRB drafter of your proposal,
Joseph T. Kreye at (608) 266-2263, to discuss your options under the fiscal estimate procedure.*

***To release this fiscal estimate for earlier publication,
please click the 'Release NOW' button below.**



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
REFERENCE SECTION: (608) 266-0341
FAX: (608) 266-5648

STEPHEN R. MILLER
CHIEF

April 9, 2001

MEMORANDUM

To: Representative Michael Lehman

From: Joseph T. Kreye, Legislative Attorney, (608) 266-2263
Marc E. Shovers, Sr. Legislative Attorney, (608) 266-0129

Subject: Technical Memorandum to **2001 AB-244** (LRB-2269/1)

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

April 9, 2001

TO: Joseph Kreye
Marc Shovers
Legislative Reference Bureau

FROM: Dennis Collier
Department of Revenue

SUBJECT: Technical Memorandum on AB 244 – Duration of Tax Warrant Liens

The Department wishes to make several comments regarding AB 244:

1. The time period provided to renew the lien under sec. 71.91(5)(dm) is unclear. It appears to allow the Department to renew the expired lien by refiling it up to six months after the original lien expired. The proposal also states that the priority date of the refiled lien relates back to the filing date of the original lien. As a result, the lien priority would remain uncertain during the six month period after an original lien expired but before the Department refiled the lien. The sponsor may wish to insert language that requires the Department to refile its lien prior to the expiration date of the original lien.
2. The sponsor may wish to clarify sec. 71.91(5)(dm) to indicate whether liens may be renewed more than once.
3. The sponsor may wish to examine the cross references in sections 77.62 and 78.70(1) to sec. 71.91 to ensure that these sections either retain their original intent or are updated to include any changes made by the proposed legislation.

If you have questions regarding this technical memorandum, please contact Meredith Krejny at 261-8984.

DC:MK

Fiscal Estimate - 2001 Session

Original Updated Corrected Supplemental

LRB Number 01-2269/1	Introduction Number AB-244
Subject Duration of tax warrant liens	
Fiscal Effect	
State:	
<input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriations	
<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs	
Local:	
<input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate	
1. <input type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
Fund Sources Affected	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	
Affected Ch. 20 Appropriations	
Agency/Prepared By DOR/ Meredith Krejny (608) 261-8984	Authorized Signature Dennis Collier (608) 266-5773
Date 4/9/01	

Fiscal Estimate Narratives
DOR 4/9/01

LRB Number 01-2269/1	Introduction Number AB-244	Estimate Type Original
Subject Duration of tax warrant liens		

Assumptions Used in Arriving at Fiscal Estimate

This bill limits the existence of a Department of Revenue tax warrant lien to a 20-year period unless the Department renews the warrant by refileing it. Under current law, the lien exists until it is paid.

Currently, the bill has no significant fiscal effect. In the event that a lien was to go unpaid for 20 years and not be renewed, the unpaid amount could result in a revenue loss to the state. These amounts are not expected to be significant.

Long-Range Fiscal Implications