



Ohio Legislative Service Commission

Bill Analysis

Mackenzie Damon

S.B. 172

129th General Assembly
(As Introduced)

Sens. Schaffer, Gillmor

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	05-17-11

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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.



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SB 172

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As Introduced

**129th General Assembly
Regular Session
2011-2012**

S. B. No. 172

Senator Schaffer

Cosponsor: Senator Gillmor

A BILL

To amend section 2333.01 and to enact section 5747.124 of the Revised Code to enable a judgment creditor landlord to obtain a court order directing the Tax Commissioner to pay the judgment debtor tenant's income tax refund to the landlord.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2333.01 be amended and section 5747.124 of the Revised Code be enacted to read as follows:

Sec. 2333.01. When a judgment debtor does not have sufficient personal or real property subject to levy on execution to satisfy the judgment, any equitable interest which ~~be~~ the judgment debtor has in real estate as mortgagor, mortgagee, or otherwise, or any interest ~~be~~ the judgment debtor has in a banking, turnpike, bridge, or other joint-stock company, or in a money contract, claim, or chose in action, due or to become due to ~~him~~ the judgment debtor, or in a judgment or order, or money, goods, or effects which ~~be~~ the judgment debtor has in the possession of any person or body politic or corporate, or in money due or that might become due to the judgment debtor under section 5747.11 of the Revised Code, shall be subject to the payment of the judgment by action.

Sec. 5747.124. A landlord who has obtained a judgment against a current or former tenant for breach of a residential rental agreement may bring an action against the state under section 2333.01 of the Revised Code to recover a refund due or that might become due to the tenant under section 5747.11 of the Revised Code. Such a suit shall be brought only in the court of common pleas of Franklin county, which shall have jurisdiction. The rights of the landlord to the refund are subordinate to the state's right to apply the refund against the claims listed in sections 5747.12, 5747.121, 5747.122, and 5747.123 of the Revised Code.

An order directing the tax commissioner to pay all or part of a tenant's refund to the landlord shall be a continuing order and remains effective until the earlier of four years after the date of the order or the date the judgment is satisfied. If an order has been issued and is effective, within three days after the judgment has been satisfied the landlord shall file a satisfaction of judgment with the clerk of courts and serve a time-stamped copy of the satisfaction of judgment upon the commissioner by certified mail.

As used in this section, "landlord" and "tenant" have the same meanings as in section 5321.01 of the Revised Code.

Section 2. That existing section 2333.01 of the Revised Code is hereby repealed.

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