

HOUSE BILL 419

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3lr1740

By: **Delegate Frick**

Introduced and read first time: January 28, 2013

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2013

CHAPTER _____

1 AN ACT concerning

2 **Personal Property Tax – Liens for Unpaid Tax**

3 FOR the purpose of ~~requiring liens for unpaid tax on personal property to be recorded~~
4 ~~and indexed in the office of the clerk of the circuit court of a county where the~~
5 ~~tax is owed; providing that a lien for unpaid tax on personal property is~~
6 ~~subordinate to a certain security interest in personal property; providing that a~~
7 certain secured party may satisfy a tax lien on secured property under certain
8 circumstances; requiring the secured party to send certain written notice under
9 certain circumstances; requiring the secured party to pay a certain share of
10 personal property taxes owed in a certain manner; requiring a certain county or
11 municipality to provide a certain response and make certain attempts to resolve
12 disputes concerning a certain amount owed under certain circumstances;
13 providing that if the secured party fails to provide certain notice and payment,
14 the secured party may not satisfy the personal property tax lien in a certain
15 manner; providing that a certain secured party has a certain burden of proof
16 under certain circumstances; providing a secured party a certain right of
17 contribution; providing for the construction of this Act; and generally relating to
18 liens for unpaid tax on personal property.

19 BY repealing and reenacting, with amendments,
20 Article – Tax – Property
21 Section ~~14-804~~ and 14-805
22 Annotated Code of Maryland
23 (2012 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Tax – Property

~~14-804.~~

(a) ~~All unpaid taxes on real property shall be, until paid, liens on the real property in respect to which they are imposed from the date they became or become payable.~~

(b) ~~(1) [All] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ALL unpaid tax on personal property is a lien on the personal property and on the real property of the owner of the personal property in the same manner in which taxes on real property are now liens on the real property with respect to which they are imposed in all subdivisions of the STATE.~~

~~(2) [State; provided that the] A lien FOR UNPAID TAX ON PERSONAL PROPERTY will attach to the real property OF THE OWNER OF THE PERSONAL PROPERTY only after the notice has been recorded and indexed among the judgment records in the office of the clerk of the circuit court in the county where the land lies, or is recorded and indexed on the tax rolls of the subdivision.~~

~~(3) Any subdivision, in lieu of recording in the appropriate court, may use a lien reporting system, and any subdivision so doing shall provide, on request, a lien report or memorandum with respect to any particular person.~~

~~(e) The county property tax deferred under § 10-201 of this article is a lien on the property for which the deferral was granted.~~

~~(d) The unpaid balance of a deferral granted under § 10-202 of this article is a lien on the property for which the deferral was granted.~~

~~(E) A LIEN FOR UNPAID TAX ON PERSONAL PROPERTY SHALL BE RECORDED AND INDEXED BY EACH COUNTY AMONG THE JUDGMENT RECORDS IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN THE COUNTY WHERE THE TAX IS OWED.~~

14-805.

(a) From the date property tax on real property is due, liability for the tax and a 1st lien attaches to the real property in the amount of the property tax due on the real property.

(b) [From] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, FROM the date property tax on personal property is due, liability for the tax and a 1st

1 lien attaches to the personal property in the amount of the property tax due on the
2 personal property.

3 ~~(C) A LIEN ATTACHED IN ACCORDANCE WITH SUBSECTION (B) OF THIS~~
4 ~~SECTION SHALL BE SUBORDINATE TO A PURCHASE MONEY SECURITY INTEREST~~
5 ~~ON PERSONAL PROPERTY IF, PRIOR TO THE LIEN ATTACHMENT, THE PURCHASE~~
6 ~~MONEY SECURITY INTEREST WAS PERFECTED AND FILED IN ACCORDANCE WITH~~
7 ~~TITLE 9 OF THE COMMERCIAL LAW ARTICLE.~~

8 (C) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION,
9 A SECURED PARTY WITH A SECURITY INTEREST IN PERSONAL PROPERTY OF A
10 BUSINESS MAY SATISFY A TAX LIEN ON THE SECURED PROPERTY BY PROVIDING
11 THE REQUIRED NOTICE AND PAYING THE REQUIRED PRO RATA PORTION OF THE
12 PERSONAL PROPERTY TAXES DUE AND OWING, INCLUDING A PRO RATA SHARE
13 OF ACCRUED PENALTY AND INTEREST.

14 (2) (I) WITHIN 60 DAYS AFTER A SECURED PARTY TAKES
15 REPOSSESSION IN ACCORDANCE WITH TITLE 9 OF THE COMMERCIAL LAW
16 ARTICLE OF THE PERSONAL PROPERTY OF A BUSINESS AFTER A DEFAULT BY
17 THE BUSINESS THAT OWES PERSONAL PROPERTY TAXES, THE SECURED PARTY
18 SHALL SEND WRITTEN NOTICE TO EACH COUNTY AND MUNICIPALITY THAT HAS
19 A CERTIFIED ASSESSMENT BY THE STATE DEPARTMENT OF ASSESSMENTS AND
20 TAXATION FOR THE BUSINESS IN AN AMOUNT EQUAL TO OR GREATER THAN THE
21 COST BASIS OF THE PERSONAL PROPERTY REPOSSESSED BY THE SECURED
22 PARTY, LESS THE DEPRECIATION THAT WOULD BE APPLICABLE TO THE COST
23 BASES UNDER THE STATE'S DEPRECIATION SCHEDULES.

24 (II) THE NOTICE REQUIRED UNDER SUBPARAGRAPH (I) OF
25 THIS PARAGRAPH SHALL INCLUDE:

26 1. THE STATE DEPARTMENT OF ASSESSMENTS AND
27 TAXATION IDENTIFICATION NUMBER;

28 2. THE IDENTITY OF THE BUSINESS OWNER;

29 3. THE LOCATION WHERE THE PERSONAL PROPERTY
30 WAS REPOSSESSED;

31 4. A REASONABLE DESCRIPTION OF THE PERSONAL
32 PROPERTY REPOSSESSED, INCLUDING, IF AVAILABLE, THE NAME OF THE
33 MANUFACTURER, MODEL, YEAR OF MANUFACTURE, SERIAL NUMBER,
34 REGISTRATION NUMBER, AND VEHICLE IDENTIFICATION NUMBER;

35 5. THE DATE OF PURCHASE IF KNOWN;

1 **6. THE PURCHASE PRICE OF THE PROPERTY IF**
2 **KNOWN;**

3 **7. A COPY OF ANY SALES DOCUMENTS IN THE**
4 **POSSESSION OF THE SECURED PARTY;**

5 **8. WHEN THE DATE OF PURCHASE AND PURCHASE**
6 **PRICE OF THE PROPERTY ARE NOT KNOWN, THE SECURED PARTY'S ESTIMATE**
7 **OF THE FAIR MARKET VALUE OF THE PROPERTY AS OF THE DATE OF THE**
8 **SECURED PARTY'S LOAN OR ADVANCE;**

9 **9. THE SECURED PARTY'S ESTIMATE AS TO THE**
10 **VALUE OF THE PROPERTY BASED ON THE STATE'S DEPRECIATION SCHEDULES;**
11 **AND**

12 **10. THE SECURED PARTY'S ESTIMATE AS TO THE PRO**
13 **RATA SHARE OF PERSONAL PROPERTY TAXES OWED, INCLUDING A PRO RATA**
14 **SHARE OF ACCRUED PENALTY AND INTEREST.**

15 **(3) (i) EXCEPT AS PROVIDED IN SUBPARAGRAPH (ii) OF THIS**
16 **PARAGRAPH, WITHIN A REASONABLE PERIOD OF TIME AFTER PROVIDING**
17 **NOTICE, THE SECURED PARTY SHALL PAY THE PRO RATA SHARE OF PERSONAL**
18 **PROPERTY TAXES OWED, INCLUDING A PRO RATA SHARE OF ACCRUED PENALTY**
19 **AND INTEREST, AS SPECIFIED IN PARAGRAPH (4) OF THIS SUBSECTION.**

20 **(ii) IF A COUNTY OR MUNICIPALITY DISPUTES THE PRO**
21 **RATA SHARE OF PERSONAL PROPERTY TAXES OWED, INCLUDING A PRO RATA**
22 **SHARE OF ACCRUED PENALTY AND INTEREST, THE COUNTY OR MUNICIPALITY**
23 **SHALL:**

24 **1. RESPOND TO THE SECURED PARTY INDICATING**
25 **THE AMOUNT OF PERSONAL PROPERTY TAXES AND PENALTIES AND INTEREST**
26 **DUE ON THE SPECIFIED PERSONAL PROPERTY; AND**

27 **2. MAKE REASONABLE ATTEMPTS TO RESOLVE THE**
28 **DISPUTE WITH THE SECURED PARTY.**

29 **(4) (i) IF THE STATE HAS CERTIFIED AN ASSESSMENT ON A**
30 **BUSINESS FOR 1 OR MORE YEARS AND THE ASSESSMENT CERTIFICATIONS ARE**
31 **TO A SINGLE COUNTY, A SINGLE MUNICIPALITY, OR ONE OR MORE**
32 **MUNICIPALITIES WITHIN A SINGLE COUNTY, TO OBTAIN A STATUTORY RELEASE**
33 **UNDER THIS SECTION, THE SECURED PARTY SHALL PAY TO THE COUNTY AND**
34 **MUNICIPALITIES THE PRO RATA PORTION OF THE PERSONAL PROPERTY TAXES**

1 DUE BY THE BUSINESS FOR EACH OUTSTANDING TAX LEVY, INCLUDING THE PRO
2 RATA SHARE OF ACCRUED PENALTY AND INTEREST, CORRESPONDING TO THE
3 PRO RATA PORTION OF THE ASSESSMENT CERTIFIED BY THE STATE FOR EACH
4 TAX LEVY AT ISSUE.

5 (II) IF THE STATE HAS CERTIFIED AN ASSESSMENT ON A
6 BUSINESS FOR 1 OR MORE YEARS TO MORE THAN ONE COUNTY OR, IF
7 APPLICABLE, ONE OR MORE MUNICIPALITIES WITHIN ONE OR MORE COUNTIES,
8 TO OBTAIN A STATUTORY RELEASE UNDER THIS SUBSECTION, THE SECURED
9 PARTY SHALL PAY THE PRO RATA PORTION OF THE TAX DUE, INCLUDING THE
10 PRO RATA SHARE OF ACCRUED PENALTY AND INTEREST TO THE APPROPRIATE
11 COUNTY OR MUNICIPALITY IN THE FOLLOWING PRIORITY:

12 1. TO THE COUNTY, AND THE MUNICIPALITY WITHIN
13 THE COUNTY IF APPLICABLE, WHERE THE PRINCIPAL OFFICE OF THE BUSINESS
14 IS LOCATED ACCORDING TO THE INFORMATION ON FILE WITH THE STATE
15 DEPARTMENT OF ASSESSMENTS AND TAXATION, IF THAT COUNTY OR
16 MUNICIPALITY HAS AN ASSESSMENT CERTIFICATION BY THE STATE ON THE
17 BUSINESS PERSONAL PROPERTY OF THE BUSINESS IN AN AMOUNT EQUAL TO OR
18 GREATER THAN THE COST BASIS OF THE PROPERTY REPOSSESSED BY THE
19 SECURED PARTY, LESS DEPRECIATION;

20 2. TO THE COUNTY AND MUNICIPALITY WHERE THE
21 SECURED PARTY REPOSSESSED THE PERSONAL PROPERTY OF THE BUSINESS, IF
22 THAT COUNTY OR MUNICIPALITY HAS AN ASSESSMENT CERTIFICATION BY THE
23 STATE ON THE BUSINESS PERSONAL PROPERTY OF THE BUSINESS IN AN
24 AMOUNT EQUAL TO OR GREATER THAN THE COST BASIS OF THE PROPERTY
25 REPOSSESSED BY THE SECURED PARTY, LESS DEPRECIATION;

26 3. TO ANY COUNTY AND MUNICIPALITY WHERE THE
27 ASSESSMENT CERTIFICATION BY THE STATE ON THE BUSINESS PERSONAL
28 PROPERTY IS IN AN AMOUNT EQUAL TO OR GREATER THAN THE COST BASIS OF
29 THE PROPERTY REPOSSESSED BY THE SECURED PARTY, LESS STATUTORY
30 DEPRECIATION; OR

31 4. IF TWO OR MORE COUNTIES OR MUNICIPALITIES
32 HAVE AN ASSESSMENT CERTIFICATION BY THE STATE ON THE BUSINESS
33 PERSONAL PROPERTY OF THE BUSINESS THAT IS IN AN AMOUNT EQUAL TO OR
34 GREATER THAN THE COST BASIS OF THE PROPERTY REPOSSESSED BY THE
35 SECURED PARTY, LESS DEPRECIATION, AND THE CONDITIONS IN ITEMS 1 AND 2
36 HAVE NOT BEEN MET, TO EACH COUNTY AND MUNICIPALITY, IF APPLICABLE,
37 THE PRO RATA PORTION OF THE TAX THAT CORRESPONDS TO THE PRO RATA
38 PORTION OF THE CUMULATIVE ASSESSMENT CERTIFIED BY THE STATE FOR
39 EACH TAX YEAR LEVY AT ISSUE IN PROPORTION TO THE ASSESSMENT IN EACH

1 JURISDICTION WHERE THE ASSESSMENT CERTIFICATIONS ARE IN AN AMOUNT
2 EQUAL TO OR GREATER THAN THE COST BASIS OF THE PERSONAL PROPERTY
3 REPOSSESSED BY THE SECURED PARTY, LESS DEPRECIATION.

4 (5) IF THE SECURED PARTY FAILS TO PROVIDE THE NOTICE AND
5 PAYMENT REQUIRED UNDER PARAGRAPHS (2) AND (3) OF THIS SUBSECTION,
6 THE SECURED PARTY MAY NOT SATISFY THE PERSONAL PROPERTY TAX LIEN ON
7 PERSONAL PROPERTY BY ONLY PAYING THE PRO RATA SHARE OF PERSONAL
8 PROPERTY TAXES DUE AND OWING, INCLUDING ACCRUED PENALTIES AND
9 INTEREST, ON THE REPOSSESSED PERSONAL PROPERTY.

10 (6) IF THE SECURED PARTY SEEKS TO LIMIT THE LIABILITY OF
11 THE COUNTY'S OR MUNICIPALITY'S STATUTORY FIRST LIEN FOR TAXES OWED TO
12 THE VALUE OF THE PROPERTY REPOSSESSED, THE SECURED PARTY HAS THE
13 BURDEN OF PROVING, WITH REASONABLE CERTAINTY, THE VALUE OF THE
14 PROPERTY REPOSSESSED.

15 (7) THIS SUBSECTION MAY NOT BE CONSTRUED TO CONSTITUTE A
16 RELEASE OF LIABILITY OR RELEASE OF THE TAX LIEN OF THE DEBTOR
17 BUSINESS, WITH RESPECT TO ITS PRINCIPALS, OFFICERS, MEMBERS, OR
18 DIRECTORS, OR ANY TRANSFEREES OF PROPERTY THAT IS ENCUMBERED BY A
19 TAX LIEN AND IS OWNED, USED, OR LEASED BY THE BUSINESS.

20 (8) (I) THIS SUBSECTION MAY NOT BE CONSTRUED TO
21 CONSTITUTE A REPRIEVE OR EXEMPTION FROM THE ANNUAL PERSONAL
22 PROPERTY REPORTING DUTIES AND RESPONSIBILITIES OF A BUSINESS.

23 (II) THIS SUBSECTION MAY NOT BE CONSTRUED TO
24 CONSTITUTE A RELEASE OF LIABILITY FOR TAXES LEVIED AS A RESULT OF
25 SUBSEQUENT ASSESSMENTS FROM THE STATE AS TO ANY OF THE PROPERTY
26 REPOSSESSED BY THE SECURED PARTY.

27 (9) THE SECURED PARTY SHALL HAVE A RIGHT OF
28 CONTRIBUTION FROM THE BUSINESS FOR ANY TAXES, PENALTIES, AND
29 INTEREST PAID BY THE SECURED PARTY UNDER THIS SUBSECTION.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 June 1, 2013.