

Chapter 370

(House Bill 419)

AN ACT concerning

Personal Property Tax – Liens for Unpaid Tax

FOR the purpose of ~~requiring liens for unpaid tax on personal property to be recorded and indexed in the office of the clerk of the circuit court of a county where the tax is owed; providing that a lien for unpaid tax on personal property is subordinate to a certain security interest in personal property; providing that a certain secured party may elect to satisfy a tax lien on secured property under certain circumstances; providing that a certain statutory lien shall be released under certain circumstances; requiring the secured party to send certain written notice under certain circumstances; requiring the secured party to pay a certain share~~ portion of personal property taxes owed, including a certain share of certain penalties and interest, in a certain manner; requiring a certain county or municipality to provide a certain response and make certain attempts to resolve disputes concerning a certain amount owed under certain circumstances; providing that if the secured party fails to provide certain notice and payment, the secured party may not satisfy the personal property tax lien in a certain manner; providing that a certain secured party has a certain burden of proof under certain circumstances; providing a secured party a certain right of contribution; providing for the construction of this Act; and generally relating to liens for unpaid tax on personal property.

BY repealing and reenacting, with amendments,

Article – Tax – Property
 Section ~~14-804~~ and 14-805
 Annotated Code of Maryland
 (2012 Replacement Volume)

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

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

(C) (1) (I) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, A SECURED PARTY WITH A SECURITY INTEREST IN PERSONAL PROPERTY OF A BUSINESS MAY ELECT TO SATISFY A TAX LIEN ON THE SECURED PROPERTY BY PROVIDING THE ~~REQUIRED~~ NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION AND PAYING THE REQUIRED PRO RATA PORTION OF THE PERSONAL PROPERTY TAXES DUE AND OWING, INCLUDING A PRO RATA SHARE OF ACCRUED PENALTY AND INTEREST AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION.

(II) IF THE SECURED PARTY PAYS THE REQUIRED PRO RATA PORTION OF THE PERSONAL PROPERTY TAXES DUE AND OWING, INCLUDING A PRO RATA SHARE OF THE ACCRUED PENALTY AND INTEREST AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE STATUTORY LIEN ON THE SECURED PROPERTY IDENTIFIED IN THE NOTICE REQUIRED BY PARAGRAPH (2) OF THIS SUBSECTION SHALL BE RELEASED.

(2) (I) ~~WITHIN~~ NOT LATER THAN 60 DAYS AFTER A SECURED PARTY TAKES REPOSSESSION IN ACCORDANCE WITH TITLE 9 OF THE COMMERCIAL LAW ARTICLE OF THE PERSONAL PROPERTY OF A BUSINESS AFTER A DEFAULT BY THE BUSINESS THAT OWES PERSONAL PROPERTY TAXES, THE SECURED PARTY SHALL SEND WRITTEN NOTICE TO EACH COUNTY AND MUNICIPALITY THAT HAS A CERTIFIED ASSESSMENT BY THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION FOR THE BUSINESS IN AN AMOUNT EQUAL TO OR GREATER THAN THE COST BASIS OF THE PERSONAL PROPERTY ~~REPOSSESSED~~ SUBJECT TO REPOSSESSION BY THE SECURED PARTY, LESS THE DEPRECIATION THAT WOULD BE APPLICABLE TO THE COST BASIS UNDER THE STATE'S DEPRECIATION SCHEDULES.

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

1. THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION IDENTIFICATION NUMBER OF THE BUSINESS THAT OWES PERSONAL PROPERTY TAXES;

2. THE IDENTITY OF THE BUSINESS OWNER;

3. THE LOCATION ~~WHERE~~ OF THE PERSONAL PROPERTY ~~WAS REPOSSESSED~~ SUBJECT TO REPOSSESSION;

4. A REASONABLE DESCRIPTION OF THE PERSONAL PROPERTY ~~REPOSSESSED~~ SUBJECT TO REPOSSESSION, INCLUDING, IF ~~AVAILABLE~~ KNOWN, THE NAME OF THE MANUFACTURER, MODEL, YEAR OF

MANUFACTURE, SERIAL NUMBER, REGISTRATION NUMBER, AND VEHICLE IDENTIFICATION NUMBER;

5. THE DATE OF PURCHASE IF KNOWN;

6. THE PURCHASE PRICE OF THE PROPERTY IF KNOWN;

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

8. WHEN THE DATE OF PURCHASE AND PURCHASE PRICE OF THE PROPERTY ARE NOT KNOWN, THE SECURED PARTY'S ESTIMATE OF THE FAIR MARKET VALUE OF THE PROPERTY AS OF THE DATE ~~OF THE SECURED PARTY'S LOAN OR ADVANCE~~ THE SECURED PARTY ESTABLISHED A SECURITY INTEREST IN THE PERSONAL PROPERTY;

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

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

(3) (I) ~~EXCEPT~~ UNLESS A COUNTY OR MUNICIPALITY DISPUTES THE SECURED PARTY'S ESTIMATE AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, WITHIN A REASONABLE PERIOD OF TIME AFTER PROVIDING NOTICE AS REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE SECURED PARTY SHALL PAY THE PRO RATA ~~SHARE~~ PORTION OF PERSONAL PROPERTY TAXES OWED, INCLUDING A PRO RATA SHARE OF ACCRUED PENALTY AND INTEREST, AS SPECIFIED IN PARAGRAPH (4) OF THIS SUBSECTION, AND THE STATUTORY LIEN ON THE SECURED PROPERTY IDENTIFIED IN THE NOTICE UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE RELEASED.

(II) ~~IF A~~ A COUNTY OR MUNICIPALITY ~~DISPUTES~~ MAY DISPUTE THE SECURED PARTY'S ESTIMATE OF THE PRO RATA ~~SHARE~~ PORTION OF PERSONAL PROPERTY TAXES OWED, INCLUDING A PRO RATA SHARE OF ACCRUED PENALTY AND INTEREST, ~~IF~~ THE COUNTY OR MUNICIPALITY ~~SHALL~~:

1. ~~RESPOND~~ RESPONDS IN WRITING TO THE SECURED PARTY NOT LATER THAN 45 DAYS AFTER THE SECURED PARTY PROVIDED NOTICE AS REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION

INDICATING THE PRO RATA AMOUNT OF PERSONAL PROPERTY TAXES AND PENALTIES AND INTEREST DUE ON THE SPECIFIED PERSONAL PROPERTY AS CALCULATED BY THE COUNTY OR MUNICIPALITY; AND

2. ~~MAKE~~ ~~MAKES~~ REASONABLE ATTEMPTS TO RESOLVE THE DISPUTE WITH THE SECURED PARTY.

(4) (I) IF THE STATE HAS CERTIFIED AN ASSESSMENT ON A BUSINESS FOR 1 OR MORE YEARS AND THE ASSESSMENT CERTIFICATIONS ARE TO A SINGLE COUNTY, A SINGLE MUNICIPALITY, OR ONE OR MORE MUNICIPALITIES WITHIN A SINGLE COUNTY, TO OBTAIN A STATUTORY RELEASE UNDER THIS SECTION, THE SECURED PARTY SHALL PAY TO THE COUNTY AND MUNICIPALITIES THE PRO RATA PORTION OF THE PERSONAL PROPERTY TAXES DUE BY THE BUSINESS FOR EACH OUTSTANDING TAX LEVY, INCLUDING THE PRO RATA SHARE OF ACCRUED PENALTY AND INTEREST, CORRESPONDING TO THE PRO RATA PORTION OF THE ASSESSMENT CERTIFIED BY THE STATE FOR EACH TAX LEVY AT ISSUE.

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

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

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

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

4. IF TWO OR MORE COUNTIES OR MUNICIPALITIES HAVE AN ASSESSMENT CERTIFICATION BY THE STATE ON THE BUSINESS PERSONAL PROPERTY OF THE BUSINESS THAT IS IN AN AMOUNT EQUAL TO OR GREATER THAN THE COST BASIS OF THE PROPERTY ~~REPOSSESSED~~ SUBJECT TO REPOSSESSION BY THE SECURED PARTY, LESS DEPRECIATION, AND THE CONDITIONS IN ITEMS 1 AND 2 HAVE NOT BEEN MET, TO EACH COUNTY AND MUNICIPALITY, IF APPLICABLE, THE PRO RATA PORTION OF THE TAX THAT CORRESPONDS TO THE PRO RATA PORTION OF THE CUMULATIVE ASSESSMENT CERTIFIED BY THE STATE FOR EACH TAX YEAR LEVY AT ISSUE IN PROPORTION TO THE ASSESSMENT IN EACH JURISDICTION WHERE THE ASSESSMENT CERTIFICATIONS ARE IN AN AMOUNT EQUAL TO OR GREATER THAN THE COST BASIS OF THE PERSONAL PROPERTY ~~REPOSSESSED~~ SUBJECT TO REPOSSESSION BY THE SECURED PARTY, LESS DEPRECIATION.

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

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

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

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

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

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

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

Approved by the Governor, May 2, 2013.