

HB0419/965962/1

BY: Committee on Ways and Means

AMENDMENTS TO HOUSE BILL 419
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “requiring” in line 3 down through “property;” in line 6 and substitute “providing that a certain secured party may satisfy a tax lien on secured property under certain circumstances; requiring the secured party to send certain written notice under certain circumstances; requiring the secured party to pay a certain share of personal property taxes owed 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 in line 10, strike “14-804 and”.

AMENDMENT NO. 2

On pages 1 and 2, strike beginning with line 16 on page 1 through line 16 on page 2, inclusive.

On page 2, strike in their entirety lines 25 through 29, inclusive, and substitute:

“(C) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, A SECURED PARTY WITH A SECURITY INTEREST IN PERSONAL PROPERTY OF A BUSINESS MAY SATISFY A TAX LIEN ON THE SECURED PROPERTY BY PROVIDING THE REQUIRED NOTICE 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.

(Over)

(2) (I) WITHIN 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 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;
2. THE IDENTITY OF THE BUSINESS OWNER;
3. THE LOCATION WHERE THE PERSONAL PROPERTY WAS REPOSSESSED;
4. A REASONABLE DESCRIPTION OF THE PERSONAL PROPERTY REPOSSESSED, INCLUDING, IF AVAILABLE, 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;

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 OF PERSONAL PROPERTY TAXES OWED, INCLUDING A PRO RATA SHARE OF ACCRUED PENALTY AND INTEREST.

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

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

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

2. MAKE 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 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 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 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

(Over)

JURISDICTION WHERE THE ASSESSMENT CERTIFICATIONS ARE IN AN AMOUNT EQUAL TO OR GREATER THAN THE COST BASIS OF THE PERSONAL PROPERTY REPOSSESSED 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 OF PERSONAL PROPERTY TAXES DUE AND OWING, INCLUDING ACCRUED PENALTIES AND INTEREST, ON THE REPOSSESSED PERSONAL PROPERTY.

(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, THE SECURED PARTY HAS THE BURDEN OF PROVING, WITH REASONABLE CERTAINTY, THE VALUE OF THE PROPERTY REPOSSESSED.

(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.”.