

# SENATE BILL 141

Q1, M3

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By: **Senator Conway**

Introduced and read first time: January 10, 2014

Assigned to: Budget and Taxation

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## A BILL ENTITLED

AN ACT concerning

### **Tax Sales – Environmental Violations – Liens on Real Property**

FOR the purpose of requiring an unpaid penalty imposed under the Environment Article to become a lien on a person's real property; requiring the Secretary of the Environment to record certain liens; requiring any funds recovered from a tax sale of real property subject to certain liens to be allocated in the same manner as certain timely paid penalties; requiring the Secretary to include information on the number of certain liens recorded in certain reports; authorizing a tax collector to withhold from tax sale real property with certain liens under a certain amount; providing for the application of this Act; and generally relating to the enforcement of environmental violations.

BY repealing and reenacting, with amendments,

Article – Environment

Section 1–301

Annotated Code of Maryland

(2013 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Tax – Property

Section 14–801(a) and (c) and 14–808

Annotated Code of Maryland

(2012 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – Property

Section 14–811

Annotated Code of Maryland

(2012 Replacement Volume and 2013 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

**Article – Environment**

1–301.

(a) The Secretary shall carry out and enforce the provisions of this article and the rules and regulations adopted under this article.

(b) The Secretary may delegate duties, powers, and functions as provided in this article to a health officer for a county or to another county official authorized to administer and enforce environmental laws.

(c) In those counties where a county official other than the health officer is authorized to administer and enforce State environmental laws under this section, the county shall establish minimum qualifications for that county official that include standards of education and experience related to environmental issues.

(d) (1) (i) On or before October 1 of each year, the Secretary, in consultation with the Attorney General, shall submit to the Legislative Policy Committee, in accordance with § 2–1246 of the State Government Article, a report on enforcement activities conducted by the Department during the previous fiscal year.

(ii) The report shall:

1. Include the information required under this subsection and any additional information concerning environmental enforcement that the Secretary decides to provide;

2. Be available to the public as soon as it is forwarded to the Legislative Policy Committee;

3. Include information on the total number of permits and licenses issued by or filed with the Department at any time and still in effect as of the last date of the fiscal year immediately preceding the date on which the report is filed;

4. Include information concerning specific enforcement actions taken with respect to the permits and licenses during the immediately preceding fiscal year; [and]

5. Include information on the type and number of contacts or consultations with businesses concerning compliance with State environmental laws; **AND**

**6. INCLUDE INFORMATION ON THE NUMBER OF LIENS RECORDED UNDER SUBSECTION (E) OF THIS SECTION.**

(iii) The information required in the report under paragraph (3) of this subsection shall be organized according to each program specified.

(2) The report shall state the total amount of money as a result of enforcement actions, as of the end of the immediately preceding fiscal year:

(i) Deposited in the Maryland Clean Air Fund;

(ii) Deposited in the Maryland Oil Disaster Containment, Clean-Up and Contingency Fund;

(iii) Deposited in the Nontidal Wetland Compensation Fund;

(iv) Deposited in the Maryland Hazardous Substance Control Fund;

(v) Recovered by the Department from responsible parties in accordance with § 7-221 of this article; and

(vi) Deposited in the Maryland Clean Water Fund.

(3) (i) The report shall include the information specified in subparagraphs (ii), (iii), (iv), and (v) of this paragraph for each of the following programs in the Department:

1. Ambient air quality control under Title 2, Subtitle 4 of this article;

2. Oil pollution under Title 4, Subtitle 4 of this article;

3. Nontidal wetlands under Title 5, Subtitle 9 of this article;

4. Asbestos under Title 6, Subtitle 4 of this article;

5. Lead paint under Title 6, Subtitle 8 of this article;

6. Controlled hazardous substances under Title 7, Subtitle 2 of this article;

7. Water supply, sewerage systems, and refuse disposal systems under Title 9, Subtitle 2 of this article;

8. Water discharges under Title 9, Subtitle 3 of this article;

9. Drinking water under Title 9, Subtitle 4 of this article; and

10. Wetlands under Title 16, Subtitle 2 of this article.

(ii) For each of the programs set forth in subparagraph (i) of this paragraph, the Department shall provide the total number or amount of:

1. Final permits or licenses issued to a person or facility, as appropriate, and not surrendered, suspended, or revoked;

2. Inspections, audits, or spot checks performed at facilities permitted;

3. Injunctions obtained;

4. Show cause, remedial, and corrective action orders issued;

5. Stop work orders;

6. Administrative or civil penalties obtained;

7. Criminal actions charged, convictions obtained, imprisonment time ordered, and criminal fines received; [and]

8. **LIENS RECORDED UNDER SUBSECTION (E) OF THIS SECTION; AND**

9. Any other actions taken by the Department to enforce the requirements of the applicable environmental program, including:

A. Notices of the removal or encapsulation of asbestos under § 6–414.1 of this article; and

B. Actions enforcing user charges against industrial users under § 9–341 of this article.

(iii) In addition to the information required in subparagraph (ii) of this paragraph, for the Lead Paint Program under Title 6, Subtitle 8 of this article, the report shall include the total number or amount of:

1. Affected properties registered; and

2. Inspectors or other persons accredited by the Department, for whom accreditation has not been surrendered, suspended, or revoked.

(iv) In addition to the information required in subparagraph (ii) of this paragraph, for the Controlled Hazardous Substances Program under Title 7, Subtitle 2 of this article, the report shall include the following lists, updated to reflect the most recent information available for the immediately preceding fiscal year:

1. Possible controlled hazardous substance sites compiled in accordance with § 7–223(a) of this article;

2. Proposed sites listed in accordance with § 7–223(c) of this article at which the Department intends to conduct preliminary site assessments; and

3. Hazardous waste sites in the disposal site registry compiled in accordance with § 7–223(f) of this article.

(v) In addition to the information required in subparagraph (ii) of this paragraph, for the Drinking Water Program, the report shall include the total number of:

1. Actions to prevent public water system contamination or to respond to a Safe Drinking Water Act emergency under §§ 9–405 and 9–406 of this article; and

2. Notices given to the public by public water systems under § 9–410 of this article.

**(E) (1) IF ANY PERSON WHO IS LIABLE TO PAY A PENALTY IMPOSED UNDER THIS ARTICLE FAILS TO PAY THE PENALTY AFTER DEMAND, THE AMOUNT, TOGETHER WITH INTEREST AND ANY COSTS THAT MAY ACCRUE, SHALL BE A LIEN IN FAVOR OF THE STATE ON ANY REAL PROPERTY OF THE PERSON.**

**(2) THE SECRETARY, OR A PERSON TO WHOM THE SECRETARY HAS DELEGATED ENFORCEMENT UNDER SUBSECTION (B) OF THIS SECTION, SHALL RECORD THE LIEN WITH THE CLERK OF THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE REAL PROPERTY IS LOCATED.**

**(3) ANY FUNDS RECOVERED FROM A TAX SALE OF THE REAL PROPERTY TO SATISFY A LIEN IMPOSED UNDER THIS SUBSECTION SHALL BE ALLOCATED IN THE SAME MANNER AS TIMELY PAID PENALTIES.**

14-801.

(a) In §§ 14-801 through 14-854 of this subtitle, the following words have the meanings indicated.

(c) (1) “Tax” means any tax, or charge of any kind due to the State or any of its political subdivisions, or to any other taxing agency, that by law is a lien against the real property on which it is imposed or assessed.

(2) “Tax” includes interest, penalties, and service charges.

14-808.

(a) The collector shall proceed to sell and shall sell under this subtitle, at the time required by local law but in no case, except in Baltimore City, later than 2 years from the date the tax is in arrears, all property in the county in which the collector is elected or appointed on which the tax is in arrears. The collector is required to sell, but failure of the collector to sell within the 2-year period does not affect the validity or collectibility of any tax, or the validity of any sale thereafter made.

(b) In Calvert County the collector shall proceed to advertise and sell any real property immediately after the tax is delinquent for a period of 1 year.

(c) In St. Mary’s County, the Board of County Commissioners shall set by resolution the date and time of a tax sale.

(d) In Garrett County, the Board of County Commissioners shall set by resolution the date and time of a tax sale.

14-811.

(A) The collector may withhold from sale any property, when the total taxes on the property, including interest and penalties, amount to less than \$250 in any 1 year.

**(B) THE COLLECTOR MAY WITHHOLD FROM SALE ANY REAL PROPERTY WHEN THE TOTAL TAXES ON THE REAL PROPERTY, INCLUDING INTEREST AND PENALTIES, ARE LESS THAN \$1,000 AND ATTRIBUTABLE ONLY TO LIENS FILED UNDER § 1-301(E) OF THE ENVIRONMENT ARTICLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any violation of the Environment Article occurring before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.