

Department of Fiscal Services  
Maryland General Assembly

FISCAL NOTE

House Bill 1338 (Delegate Finifter)  
Ways and Means

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**Personal Property Tax - Lien for Unpaid Taxes**

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This bill makes any liens placed on real property for unpaid personal property taxes subordinate to any previously filed liens. The order of superiority for real property liens currently is (1) Internal Revenue Service claims; (2) all other State and local taxes, including personal property liens; (3) purchase money mortgages (e.g., a bank's lien on the property); and (4) all other liens based on the order by which they are recorded.

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** Potential significant effect on revenues and expenditures beginning in FY 1998 as discussed below.

**Small Business Effect:** None. This bill would not directly affect small businesses.

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**Fiscal Analysis**

**Local Effect:** The Attorney General has advised that, under current law, a personal property lien is not eliminated by a foreclosure on real property and that this lien would continue after any foreclosure until the personal property taxes are paid. Under this bill, it could be interpreted that foreclosure of a prior lien on real property would eliminate a subordinate personal property lien. In many cases, the personal property on which taxes are owed can no longer be located and the only asset available is the real property. Eliminating a real property lien by foreclosure could render the taxes for a personal property lien uncollectible.

Regardless of how the bill is interpreted, there is a possibility that a greater number of personal property liens will eventually go unpaid due to insufficient funds. Foreclosure

proceeds are first used to pay the expenses of the property sale, then used to satisfy the liens in the order of their superiority. Moving a lien for unpaid personal property taxes lower on the list of liens to be satisfied increases the potential that no funds will be available for satisfaction of the lien.

Based on a survey of counties by the Department of Fiscal Services, this bill could impact the ability of local governments to collect delinquent personal property taxes through real property liens. It is estimated that Prince George's County would realize a reduction in revenues of approximately \$250,000 annually under this bill. Wicomico County revenues would decrease by \$25-50,000 annually while Washington County revenues could be reduced by as much as \$80,000 each year.

This bill could also impact a county's ability to conduct a tax sale of real property. In many cases, listing a property for sale results in payment of the personal property taxes in order to avoid the tax sale. This bill could reduce the ability of local governments to collect these taxes without filing a legal action, which could create additional expenditures.

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**Information Sources:** Department of Assessments and Taxation, Prince George's County, Allegany County, Baltimore City, Washington County, Wicomico County

**Fiscal Note History:** First Reader - March 6, 1997  
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