

Department of Legislative Services  
Maryland General Assembly  
2000 Session

FISCAL NOTE  
Revised

House Bill 157 (Delegates Hixson and Franchot)

Ways and Means

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**Real Property - Recordation - Lien for Unpaid Personal Property Taxes**

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This bill establishes that in the event of a liquidation sale or a repossession of property by a creditor, any liens for unpaid personal property taxes are extinguished, unless: (1) a personal property tax lien was recorded prior to recording the mortgage; or (2) the unpaid personal property taxes accrued after the property was transferred. If there are surplus funds after a liquidation sale, counties have the right to make a claim for any unpaid personal property taxes.

This bill is effective July 1, 2000, and is applicable to all liens or claims of liens for unpaid taxes on personal property in existence on or after July 1, 2000.

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** Potential significant effect on revenues and expenditures beginning in FY 2001.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** Under current law and practice, only liens for unpaid real property taxes and liens on real property for unpaid personal property taxes are granted special lien priority with regards to real property. If the taxes are unpaid, the taxing authority has the primary lien on the real property and all other liens on the real property are deemed subordinate. The superiority of liens generally tends to be based on the order by which they are recorded, and

liens for federal and State income taxes are not given special lien priority.

**Background:** The Attorney General's office has rendered an opinion that, under current law, a personal property tax lien is not extinguished by a foreclosure of the real property -- the personal property tax lien continues after foreclosure until it is paid. The effect of this bill could be that foreclosure on real property may render the taxes for the personal property lien uncollectible if sufficient funds are not available.

**Local Fiscal Effect:** 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 limited survey of counties by the Department of Legislative Services, this bill could impact the ability of local governments to collect delinquent personal property taxes through real property liens. Montgomery County currently has liens on almost 1,800 personal property tax accounts with a total of \$9 million in outstanding taxes (accumulation of 20 years). As a result of this bill, Montgomery County could experience a loss of \$450,000 per year in revenues. Baltimore County estimates that 1,050 accounts annually result in liens with 285 of those resulting in bankruptcy. This would lead to an estimated reduction in revenues of approximately \$712,500 in fiscal 2001 (average lien of \$2,500) increasing annually by 3% thereafter. Prince George's County estimates that there would be a minimal loss of revenues. Baltimore City advises that it would also experience a minimal loss in revenue as a result of this bill. Currently, the city has 15,866 delinquent accounts amounting to \$36 million in personal property liens.

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### **Additional Information**

**Prior Introductions:** Similar legislation was introduced and passed in the 1999 and 1998 sessions as SB 515 and SB 536, respectively. The bills were vetoed by the Governor for policy reasons. This bill was also introduced during the 1997 session as SB 627 and passed the Senate but did not pass the House.

**Cross File:** SB 12 (Senator Hoffman) - Budget and Taxation.

**Information Source(s):** Department of Assessments and Taxation, Office of the Attorney General, Montgomery County, Baltimore County, Prince George's County, Baltimore City, Department of Legislative Services

**Fiscal Note History:** First Reader - January 26, 2000

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