

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
4

5 Legislative Document

No. 339

6  
7 H.P. 279

House of Representatives, January 31, 1983

8 Reference to the Committee on Taxation, sent up for concurrence and  
9 ordered printed.

10 EDWIN H. PERT, Clerk

11 Presented by Representative Brannigan of Portland.

12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-THREE  
16

17 AN ACT to Authorize Tax Liens on  
18 Personal Property.  
19

20 Be it enacted by the People of the State of Maine as  
21 follows:

22 36 MRSA §612 is enacted to read:

23 §612. Tax lien on personal property

24 This section permits municipalities to collect  
25 unpaid personal property taxes by means of a lien  
26 procedure which is similar to the method used to col-  
27 lect real estate taxes. The procedure established in  
28 this section is virtually the same as that presently  
29 used to perfect security interests under the Uniform  
30 Commercial Code.

31 1. Lien. There shall be a lien to secure the  
32 payment of all taxes legally assessed on personal

1 property as defined in section 601, provided that in  
2 the inventory and valuation upon which the assessment  
3 is made there shall be a description of the personal  
4 property taxed which meets the requirements of Title  
5 11, section 9-402. When perfected, the lien shall  
6 take precedence over all other claims on the personal  
7 property and shall continue in force until the taxes  
8 are paid, or until the lien is otherwise terminated  
9 by law.

10 2. Definitions. As used in this section, unless  
11 the context otherwise indicates, the following terms  
12 have the following meanings.

13 A. "Collateral" means property which is the sub-  
14 ject of the lien.

15 B. "Costs" includes, but is not limited to,  
16 filing charges, interest, administrative expenses  
17 and legal fees incurred by a municipality in per-  
18 fecting and enforcing the lien authorized in this  
19 section.

20 C. "Default" means the failure to pay personal  
21 property taxes when due.

22 D. "Debtor" means taxpayer.

23 E. "Goods" means goods as defined in Title 11,  
24 section 9-105, subsection (1), paragraph (h).

25 F. "Obligations" means amount of tax, accrued  
26 interest and costs claimed to be due the munici-  
27 pality by the lien.

28 G. "Person" means any individual, trust, part-  
29 nership, association, company or corporation.

30 H. "Proceeds" means proceeds as defined in Title  
31 11, section 9-306.

32 I. "Purchase money security interest" means pur-  
33 chase money security interest as defined in Title  
34 11, section 9-107.

35 J. "Secured party" means municipality.

1 The definitions set out in this subsection shall also  
2 apply to Title 11, Article 9, where applicable.

3 3. Filing required to perfect lien. If any per-  
4 sonal property tax, other than a tax on motor vehi-  
5 cles, airplanes or inventory, due any municipality is  
6 not paid within the time established by the municipal  
7 officers, the municipality shall have a lien upon the  
8 goods which were taxed and which are situated in this  
9 State and owned by the taxpayer upon the date of  
10 perfection. This lien shall attach upon default and  
11 become perfected at the time when notice of the lien  
12 is filed, pursuant to the filing provisions of Title  
13 11, section 9-403, except that the signature of the  
14 taxpayer against whose property the lien is claimed  
15 shall not be required on the notice of lien. If the  
16 lien is not perfected within 2 years from the date of  
17 assessment, it shall expire.

18 4. Notice of lien. Each notice of lien, which  
19 may be a financing statement, shall contain informa-  
20 tion which will identify:

21 A. The owner of the property upon which the lien  
22 is claimed, if the owner is not the taxpayer;

23 B. The residence or business address of the  
24 owner;

25 C. The taxpayer and his residence or business  
26 address;

27 D. The property claimed to be subject to the  
28 lien;

29 E. The amount of tax, accrued interest and costs  
30 claimed due the municipality by the lien;

31 F. The tax year or years for which the lien is  
32 claimed; and

33 G. The municipality claiming the lien.

34 A copy of the lien shall be mailed to the taxpayer,  
35 to the owner, if the owner is not the taxpayer, and  
36 to any secured party who has a recorded security  
37 interest. Failure to give notice to any secured

1 party who has a perfected security interest shall  
2 prevent the lien from taking precedence over that  
3 security interest, but shall not otherwise affect the  
4 validity of the lien.

5 5. Effective period of lien; limitation  
6 period. The lien shall be effective for a period of  
7 10 years from the date of filing, unless discharged  
8 as provided in this section. A notice of tax lien  
9 shall not be effective if filed more than 2 years  
10 from the date of assessment for the taxes claimed to  
11 be due.

12 6. Rights and remedies of municipality and tax-  
13 payer. A municipality which has filed a notice of  
14 tax lien and the taxpayer against whom the lien has  
15 been filed shall have the rights and remedies of a  
16 secured party and debtor, respectively, as provided  
17 for in Title 11, sections 9-501 to 9-507, except that  
18 the municipality shall not have the right to propose  
19 to retain any property in satisfaction of the obli-  
20 gation, as provided in Title 11, section 9-505. In  
21 proceedings to enforce the lien, the municipality  
22 shall observe the procedures applicable to a secured  
23 party under Title 11, sections 9-501 to 9-507.

24 7. Personal property liens; discharge. If any  
25 lien created under this section is discharged, then a  
26 certificate of discharge shall promptly be filed by  
27 the tax collector of the municipality which orig-  
28 inally filed the notice of lien, or by his successor,  
29 in the same manner as termination statements are  
30 filed under Title 11, section 9-404. The municipal  
31 officer who has filed the notice of lien shall file  
32 a notice of discharge of the lien in the manner pro-  
33 vided in this section, if:

34 A. The taxes for which the lien has been filed  
35 are fully paid, together with all interest and  
36 costs due thereon;

37 B. A cash bond or surety company bond is fur-  
38 nished to the municipality conditioned upon the  
39 payment of the amount liened, together with  
40 interest and costs due, within the effective  
41 period of the lien as provided in this section;  
42 or

1           C. A final judgment shall be rendered in favor  
2 of the taxpayer or others claiming an interest in  
3 the liened personal property which determines  
4 either that the tax is not owed or that the lien  
5 is not valid. If the judgment determines that  
6 the tax is partially owed, then the officer who  
7 filed the notice of lien or his successor shall,  
8 within 10 days of the rendition of the final  
9 judgment, file an amended tax lien for the actual  
10 amount of tax found to be due, which amended  
11 lien shall be effective as to the revised amount  
12 of the lien as of the date of the filing of the  
13 original notice of tax lien, and the officer, or  
14 his successor at the time of the filing of the  
15 amended tax lien, shall also file a discharge of  
16 the original tax lien.

17

#### STATEMENT OF FACT

18           The purpose of this bill is to permit municipali-  
19 ties to collect unpaid personal property taxes by  
20 means of a lien procedure which is similar to the  
21 method used to collect real estate taxes. The pro-  
22 posed procedure is virtually the same as that pres-  
23 ently used to perfect security interests under the  
24 Uniform Commercial Code.

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