

MAINE STATE LEGISLATURE

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(New Draft of H.P. 279, L.D. 339)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 1644

H.P. 1235

House of Representatives, May 19, 1983

Reported by Representative Andrews from the Committee on Taxation
and printed under Joint Rule 2.

Original bill presented by Representative Brannigan of Portland.

EDWIN H. PERT, Clerk

STATE OF MAINE

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

AN ACT to Authorize Tax Liens on
Personal Property.

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

Sec. 1. 36 MRSA §612 is enacted to read:

§612. Tax lien on personal property

1. Lien. There shall be a lien to secure the payment of all taxes legally assessed on personal property as defined in section 601, provided in the inventory and valuation upon which the assessment is made there shall be a description of the personal property taxed which meets the requirements of Title 11, section 9-402. Except as otherwise provided in this section, the lien, when perfected, shall take precedence over all other claims on the personal property and shall continue in force until the taxes

1 are paid or until the lien is otherwise terminated by
2 law.

3 2. Definitions. As used in this section, unless
4 the context otherwise indicates, the terms used in
5 this section have the same meanings as in Title 11.

6 3. Filing required to perfect lien. The lien
7 established by subsection 1 shall attach on the date
8 of assessment and shall become perfected at the time
9 when notice of the lien, signed by the tax collector,
10 is filed, pursuant to the filing provisions of Title
11 11, section 9-403, except that the signature of the
12 taxpayer against whose property the lien is claimed,
13 shall not be required on the notice of lien. If the
14 lien is not perfected within 2 years from the date of
15 assessment, it shall expire.

16 4. Notice of lien. Each notice of lien, which
17 may be in the form of a financing statement, shall
18 contain information which will identify:

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

21 B. The residence or business address of the
22 owner;

23 C. The taxpayer and his residence or business
24 address;

25 D. The property claimed to be subject to the
26 lien;

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

29 F. The tax year or years for which the lien is
30 claimed; and

31 G. The municipality claiming the lien.

32 A copy of the notice of lien shall be given by certi-
33 fied mail, return receipt requested, at the last
34 known address, to the taxpayer, to the owner, if the
35 owner is not the taxpayer and to any secured party
36 who has a recorded security interest. Failure to give

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

5 5. Effective period of lien; limitation
6 period. The lien shall be effective for a period of
7 5 years from the date of filing, unless discharged as
8 provided in this section or unless a continuation
9 statement should be filed prior to the lapse. A con-
10 tinuation statement signed by the tax collector may
11 be filed on behalf of the municipality within 6
12 months prior to the expiration of the 5-year period
13 provided in this section in the same manner and to
14 the same effect as provided in Title 11, section
15 9-403, subsection (3).

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

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

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

38 B. A cash bond or surety company bond is fur-
39 nished to the municipality conditioned upon the
40 payment of the amount liened, together with
41 interest and cost due, within the effective
42 period of the lien as provided in this section;
43 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 the
6 tax is partially owed, then the officer who filed
7 the notice of lien or his successor shall, within
8 10 days of the rendition of the final judgment,
9 file an amended tax lien for the actual amount of
10 tax found to be due, which amended lien shall be
11 effective as to the revised amount of the lien as
12 of the date of the filing of the original notice
13 of tax lien, and the officer, or his successor at
14 the time of the filing of the amended tax lien,
15 shall also file a discharge of the original tax
16 lien.

17 8. Consumer goods. In the case of consumer
18 goods, a buyer in the ordinary course of business
19 takes free of the lien created by this section, even
20 though the lien is perfected and even though the
21 buyer knows of its existence.

22 9. Liens subordinate to security interests. The
23 lien authorized by this section shall be subordinated
24 to security interests which were perfected before the
25 effective date of this section.

26 10. Collection procedure. The collection proce-
27 dure authorized by this section shall be optional and
28 shall not affect in any way alternate collection
29 procedures authorized by law.

30 11. Limitation of this section. The lien
31 authorized by this section shall apply to taxes
32 assessed on and after April 1, 1984, and shall be
33 limited to individual items of personal property
34 which are assessed more than \$200 in personal prop-
35 erty taxes in any one year.

36 Sec. 2. 36 MRSA §1232, as amended by PL 1979, c.
37 666, §28, is further amended by adding at the end a
38 new paragraph to read:

39 In addition to the procedure authorized in the
40 preceding paragraph, the State Tax Assessor may
41 follow the procedure provided in section 612 and,

1 with regard to that procedure, shall be subject to
2 the same rights and obligations as a municipality or
3 municipal officers.

4 STATEMENT OF FACT

5 The purpose of this new draft is to permit munic-
6 ipalities to collect unpaid personal property taxes
7 by means of a lien procedure which is similar to the
8 method used to collect real estate taxes. The pro-
9 posed procedure is virtually the same as that pres-
10 ently used to perfect security interests under the
11 Uniform Commercial Code.

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