

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2003

most recent Federal Decennial Census or Federal Estimated Census figures for each municipality in the district and at least one recommended apportionment plan.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective May 30, 2003.

CHAPTER 355

H.P. 965 - L.D. 1311

An Act To Clarify the Filing of Municipal Personal Property Tax Liens

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

Sec. 1. 36 MRSA §612, sub-§1, as amended by PL 1999, c. 699, Pt. D, §28 and affected by §30, is further amended to read:

1. Lien. ~~There must be a lien to secure the payment of all taxes legally assessed on~~ The legal assessment of taxes upon personal property as defined in section 601 and against a particular taxpayer creates and constitutes a lien upon all of the property assessed to secure payment of the resulting taxes, provided in that the inventory and valuation upon which the assessment is made, there must be contains a description of the personal property taxed which that meets the requirements of Title 11, section 9-1504. Except as otherwise provided in this section, the lien, when perfected, takes precedence over all other claims on the personal property and continues in force until the taxes are paid or until the lien is otherwise terminated by law.

Sec. 2. 36 MRSA §612, sub-§§3 and 4, as amended by PL 1999, c. 699, Pt. D, §28 and affected by §30, are repealed and the following enacted in their place:

3. Perfection of lien. The lien established by subsection 1 attaches on the date of assessment and must be perfected as against all lien creditors, as defined in Title 11, section 9-1102, subsection (52), without the necessity of further action by the municipality or any other party. The lien becomes perfected as against parties other than lien creditors at the time when a notice of the lien is communicated, pursuant to the provisions of Title 11, section 9-1516, to the office identified in Title 11, section 9-1501, subsection (1), paragraph (b). Any filing is ineffective to perfect a lien as against parties that are not lien creditors to the extent that the filing covers taxes upon property whose

status for those taxes was fixed pursuant to section 502 or 611 more than 2 years prior to the filing date. The lien does not have priority against any interest as to which it is unperfected during the period in which it is not so perfected. If the lien is perfected as to some interests in the property subject to the tax, but not as to other interests, and the interests as to which it is perfected are superior in priority to the interests against which the lien is unperfected, then the lien has priority over the interests against which it has not been perfected to the extent of the superior interests against which it has been perfected.

4. Notice of lien. Each notice of lien, which may be in the form of a financing statement, must:

A. Name the owner of the property upon which the lien is claimed, if the owner is not the taxpayer and is known to the municipality;

B. Provide the residence or business address of the owner, if known to the municipality;

C. Provide the taxpayer's name and the taxpayer's residence or business address, if known to the municipality, and if not otherwise known, the address where the property that is being taxed was located on the date the status of such taxable property was fixed pursuant to section 502 or 611;

D. Describe the property claimed to be subject to the lien in a manner that meets the requirements of Title 11, section 9-1504;

E. State the amount of tax, accrued interest and costs, as of the date on which the municipality sends the notice for filing, claimed due the municipality and secured by the lien;

F. State the tax year or years for which the lien is claimed;

G. Name the municipality claiming the lien;

H. Set forth the phrase "NOTICE OF PERSONAL PROPERTY TAX LIEN" in that part of the financing statement otherwise used to describe the collateral;

I. Indicate that the notice is filed as a non-UCC filing; and

J. Indicate that the taxpayer or owner, if an organization, has no organizational identification number, regardless of whether such a number may exist for that entity.

The notice of lien need not contain the information required by Title 11, section 9-1516, subsection (2), paragraph (e), subparagraph (iii) and must be accepted for filing without that information notwithstanding the

provisions of Title 11, section 9-1520, subsection (1). A copy of the notice of lien must be given by certified mail, return receipt requested, at the last known address, to the taxpayer, to the owner, if the owner is not the taxpayer, and to any party who has asserted that it holds an interest in any of the property that is subject to the lien in an authenticated notification received by the municipality within 5 years prior to the date on which the municipality sends the notice of lien for filing, or who has filed a financing statement with the office identified in Title 11, section 9-1501, subsection (1), paragraph (b) that remains effective as of the date on which the municipality sends the notice of lien for filing. Failure to give notice to any secured party who has a perfected security interest prevents the lien from taking priority over that security interest, but does not otherwise affect the validity of the lien.

Sec. 3. 36 MRSA §612, sub-§5, as amended by PL 1999, c. 699, Pt. D, §28 and affected by §30, is further amended to read:

5. Effective period of lien; limitation period. The Perfection of any lien by the filing of a notice of lien is effective for a period of 5 years from the date of filing, unless discharged as provided in this section or unless a continuation statement is filed prior to the lapse. A continuation statement signed by the tax collector may be filed on behalf of the municipality within 6 months prior to the expiration of the 5-year period provided in this section in the same manner and to the same effect as provided in Title 11, section 9-1515.

Sec. 4. 36 MRSA §612, sub-§6, as amended by PL 1999, c. 699, Pt. D, §28 and affected by §30, is repealed and the following enacted in its place:

6. Rights and remedies of municipality and taxpayer. A municipality that has filed a notice of tax lien has the rights and remedies of a secured party, the taxpayer and the owner of the property against whom the lien has been filed have the rights and remedies of a debtor, all parties to whom the municipality is required to provide a copy of the lien notice pursuant to subsection 4 have the rights and remedies of a junior secured party and all lien creditors have the rights of lien creditors, as provided for in Title 11, Article 9-A, Part 6, except that:

A. The municipality does not have the rights provided to a secured party in Title 11, sections 9-1620, 9-1621 and 9-1622;

B. The municipality has no obligations to lien creditors or to secured parties except to the extent that it has received notice from such secured parties as set forth in subsection 4 or they have effective financing statements on file as provided in subsection 4;

C. The municipality has no obligations under Title 11, section 9-1616; and

D. The municipality is not subject to Title 11, section 9-1625, subsection (3), paragraph (b) and section 9-1625, subsections (5) to (7).

Sec. 5. 36 MRSA §612, sub-§7, ¶C, as amended by PL 1999, c. 699, Pt. D, §28 and affected by §30, is further amended to read:

C. A final judgment is rendered in favor of the taxpayer or others claiming an interest in the lien personal property which determines either that the tax is not owed or that the lien is not valid. If the judgment determines that the tax is partially owed, then the officer who filed the notice of lien or that officer's successor shall, within 10 days of the rendition of the final judgment, file an ~~amended tax~~ amendment to the notice of lien ~~for reducing the amount claimed to~~ the actual amount of tax found to be due, which amended lien is effective as to the revised amount of the lien as of the date of the filing of the original notice of tax lien, ~~and the officer, or that officer's successor at the time of the filing of the amended tax lien, shall also file a discharge of the original tax lien.~~

Sec. 6. 36 MRSA §612, sub-§9, as amended by PL 1999, c. 699, Pt. D, §28 and affected by §30, is repealed and the following enacted in its place:

9. Liens subordinate to security interests. The lien authorized by subsection 1 is subordinated to security interests that were perfected before September 23, 1983 and that have remained perfected thereafter, except to the extent that such perfected security interests would be subordinate to the rights of the municipality if the municipality were considered, whether or not such is actually the case, to be a lien creditor under Title 11, section 9-1323 by virtue of its rights pursuant to the lien authorized by subsection 1.

Sec. 7. 36 MRSA §612, sub-§11, as amended by PL 1999, c. 699, Pt. D, §28 and affected by §30, is further amended to read:

11. Limitation of this section. The lien authorized by this section applies to taxes assessed on or after April 1, 1984. The procedures of this section as amended effective July 1, 2001 or October 1, 2003 apply only to liens authorized in this section that are perfected by a filing made on or after July 1, 2001, or for which a continuation statement is filed on or after that date.

Sec. 8. 36 MRSA §612, sub-§§12 and 13 are enacted to read:

