

# DEPARTMENT OF TAXATION

## 2012 Fiscal Impact Statement

1. **Patron** Robert H. Brink

2. **Bill Number** HB 919

3. **Committee** Senate Finance

**House of Origin:**

☐ Introduced

☐ Substitute

☐ Engrossed

4. **Title** Local Taxes; Procedure for Distrain and Sale of Personal Property for Delinquent Taxes

**Second House:**

☒ In Committee

☐ Substitute

☐ Enrolled

### 5. **Summary/Purpose:**

This bill would provide that in cases involving the distraint and sale of personal property to satisfy delinquent taxes, the costs of the distress would be chargeable against the delinquent taxpayer and added to what is owed. Under the terms of the bill, the proceeds from the sale must first be applied to the costs of the distraint, followed by the unpaid taxes, penalty and accrued interest, and finally to the claims of secured parties. The bill would also require that the party conducting the sale provide a sales receipt and affidavit to any person who purchases a motor vehicle during the sale, affirming compliance with the procedures for the distraint and sale of personal property. Such purchasers would also be entitled to apply to the Department of Motor Vehicles to receive a certificate of title and registration card for the vehicle.

Current law specifies that in the sale of personal property to satisfy delinquent debts, the person conducting the sale must apply the proceeds of the sale first to unpaid taxes and then to the claims of secured parties of record, in the order of their priority.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** No.

7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

### 8. **Fiscal implications:**

This bill would have no impact on state revenues. As this bill provides statutory authorization for localities' current practices, the bill would have no impact on local revenues.

### 9. **Specific agency or political subdivisions affected:**

All localities

10. **Technical amendment necessary:** No.

## 11. Other comments:

### Collection of Delinquent Taxes by Distress

In order to satisfy a delinquent tax, Virginia law grants local treasurers, sheriffs, constables or collectors of a locality the authority to seize and sell personal property located in the locality that is owned by a person owing taxes. If a third party has a security interest in the property at issue, and that interest is perfected prior to any distraint for taxes, it will have priority over all taxes except those specifically assessed either per item or in bulk against the goods and chattels on which tax is owed. Thus, for example, if a taxpayer fails to pay the personal property tax assessed against a specific vehicle, the treasurer can distraint the taxpayer's vehicle for payment of the delinquent taxes, and the proceeds from the sale of the vehicle would be paid first to the treasurer, and any proceeds remaining after payment would be paid to the secured party.

Current law requires that once goods are sold for taxes and title is conveyed to the purchaser, the title is free of all claims of any creditor. Proceeds from the sale must be applied first to unpaid taxes, followed by the claims of the secured parties of record in the order of their priority. If there is any remaining money, it is delivered to the delinquent taxpayer or the estate assessed with taxes.

### Proposal

This bill would provide that in cases involving the distraint and sale of personal property to satisfy delinquent taxes, the costs of the distress would be chargeable against the delinquent taxpayer and added to what is owed. Under the terms of the bill, the proceeds from the sale must first be applied to the costs of the distraint, followed by the unpaid taxes, penalty and accrued interest, and finally to the claims of secured parties. The bill would also require that the party conducting the sale provide a sales receipt and affidavit to any person who purchases a motor vehicle during the sale, affirming compliance with the procedures for the distraint and sale of personal property. Such purchasers would also be entitled to apply to the Department of Motor Vehicles to receive a certificate of title and registration card for the vehicle.

The effective date of this bill is not specified.

### Similar Legislation

**House Bill 1128** would modify the procedures governing delinquent real property taxes by 1) requiring the county attorney to report to the commissioner of the revenue real property that has been improperly placed on the delinquent land books and to request correction by the commissioner of the revenue, or, if not feasible, to move the court to correct the assessment; 2) requiring the owner of real property to pay all delinquent town taxes, in addition to paying delinquent county taxes under current law, in order to stop a judicial sale of the property; and 3) conditioning a court's referral of a judicial sale to a commissioner of chancery for a ruling prior to sale, upon a proper objection having been made by an interested party.

cc : Secretary of Finance

Date: 2/15/2012 KP  
DLAS File Name: HB919FE161