

VIRGINIA ACTS OF ASSEMBLY -- 1996 SESSION

CHAPTER 732

An Act to amend and reenact § 58.1-3942 of the Code of Virginia, relating to security interests in goods and chattels distrained for local taxes.

[H 671]

Approved April 6, 1996

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3942 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-3942. Security interests no bar to distress.

No security interest in goods or chattels shall prevent the same from being distrained and sold for taxes or levies assessed thereon, no matter in whose possession they may be found.

Prior to such sale for distress, the treasurer, sheriff, constable or collector, or other party conducting the sale shall give notice to any secured party of record as his name and address shall appear on the records of the Department of Motor Vehicles, the Department of Game and Inland Fisheries, the State Corporation Commission, or in the office of the clerk of any circuit court where the debtor has resided to the knowledge of the party to whom the tax is owing during a one-year period prior to the sale. Notice shall also be given to any secured party of whom the party to whom the tax is owing shall have knowledge.

A security interest perfected prior to any distraint for taxes shall have priority over all taxes, except those specifically assessed *either per item or in bulk* against the goods and chattels distrained. Taxes specifically assessed *either per item or in bulk* against the goods and chattels distrained shall have priority over all security interests. For purposes of this section a merchant's capital tax shall be deemed to be specifically assessed against all inventory in the merchant's possession at the time of distraint, or at the time such inventory is repossessed by the holder of a security interest therein. *For purposes of this section, taxes specifically assessed in bulk means an assessment against the specific class of property distrained.*

Notwithstanding any provision of this section to the contrary, no motor vehicle as defined in § 58.1-2101 purchased by a bona fide purchaser for value from the person or estate assessed with taxes shall be liable to levy or distress for such taxes unless the purchaser knew at the time of purchase that the taxes had been specifically assessed against such vehicle.