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HOUSE BILL NO. 2365

Offered January 20, 1997

A *BILL* to amend the Code of Virginia by adding a section numbered 58.1-3952.1, relating to memorandum of lien for collection of taxes.

Patrons—Cooper, Johnson and Keating

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 58.1-3952.1 as follows:

§ 58.1-3952.1. Memorandum of lien for collection of tangible personal property, machinery and tools and merchants' capital taxes.

A. Whenever any tax assessed pursuant to the provisions of Chapter 35 of this title remains unpaid for more than 60 days after the same has become due, and the treasurer has made a written determination that collection of such delinquent taxes may be frustrated by the conveyance or removal of the property which is the subject of such taxes from the jurisdiction, the treasurer may record in the office of the clerk of the circuit court of the locality a memorandum of lien setting forth the name of the taxpayer, the amount of the delinquency including any penalties and interest thereupon, a brief description of the property as to which taxes are delinquent, and the certification required by subsection B of this section.

B. No memorandum of lien may be recorded pursuant to this section unless the treasurer has first provided the taxpayer at least ten days' notice of his intent to record such memorandum. Such notice shall be deemed sufficient if it is provided in writing to the taxpayer at his address of record upon the rolls of the locality. Every memorandum of lien shall be accompanied by the certification of the treasurer or his deputy that notice satisfying the requirements of this section has been provided to the taxpayer.

C. A memorandum of lien shall be recorded in the judgment lien book and, upon recordation, shall have the same force and effect as a judgment in the amount set forth in the memorandum in favor of the treasurer. In the event the treasurer determines that the delinquent taxpayer owns real estate in another jurisdiction in the Commonwealth, additional copies of the memorandum may be recorded in each such jurisdiction.

D. The recordation of a memorandum of lien shall not affect any right of the taxpayer to seek a refund of taxes paid or exoneration of taxes owed pursuant to applicable law. In the event that the time prescribed by law for seeking a refund or exoneration of the tax at issue has passed prior to the recordation of a memorandum of lien, and the taxpayer believes that the memorandum is erroneous, the taxpayer may file a petition for review of the memorandum of lien in the circuit court of the jurisdiction imposing the taxes at issue. In any such proceeding for review of a memorandum, the sole issue for determination shall be whether the amounts set forth in the memorandum are covered and remain due and owing; the filing of a petition shall not operate to revive rights to pursue a refund or exoneration that has become time-barred pursuant to applicable law.

INTRODUCED

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