

VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

CHAPTER 299

An Act to amend and reenact §§ 46.2-640 and 58.1-3942 of the Code of Virginia, relating to priority of security interests in motor vehicles sold for delinquent taxes.

[H 1581]

Approved March 22, 1999

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-640 and 58.1-3942 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-640. Priority of security interests shown on certificates of title.

The security interests, except security interests in motor vehicles, trailers and semitrailers which are inventory held for sale and are perfected under §§ 8.9-301 through 8.9-408, shown upon such certificates of title issued by the Department pursuant to applications for same shall have priority over any other liens or security interests against such motor vehicle, trailer, or semitrailer, however created and recorded. The foregoing provisions of this section shall not apply to *liens for taxes as provided in § 58.1-3942*, liens of keepers of garages to the extent given by § 43-32 and liens of mechanics for repairs to the extent given by § 43-33 if the requirements therefor exist, provided the garage keeper or mechanic furnishes the holder of any recorded lien who may request it with an itemized sworn statement of the storage charges, work done, and materials supplied for which the lien is claimed.

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

A. 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.

B. 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.

C. 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.

D. *The title conveyed to the purchaser of goods and chattels at a sale for taxes specifically assessed either per item or in bulk against such goods and chattels distrained shall be free of all claims of any creditor, including the claims of any secured party of record, provided that notice was given to such creditor as required by subsection B. The person conducting the sale shall apply the proceeds of the sale first to unpaid taxes and then the claims of secured parties of record, in the order of their priority, before delivering any sum remaining to the person or estate assessed with taxes.*

E. Notwithstanding any provision of this section to the contrary, no highway 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.