

HOUSE No. 1495

The Commonwealth of Massachusetts

PRESENTED BY:

Brendan P. Crighton

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the collection of personal property taxes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Brendan P. Crighton</i>	<i>11th Essex</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Brian Murray</i>	<i>10th Worcester</i>
<i>Jeffrey N. Roy</i>	<i>10th Norfolk</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>

HOUSE No. 1495

By Mr. Crighton of Lynn, a petition (accompanied by bill, House, No. 1495) of Brendan P. Crighton and others relative to the collection of personal property taxes. Revenue.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2594 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to the collection of personal property taxes.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 60 of the General Laws is hereby amended by inserting the
2 following new section:--Section 37C Lien on taxable personal property

3 Taxes assessed upon personal property under the provisions of chapter fifty-nine,
4 including section eighteen, with all accrued interest, incidental charges and fees provided for in
5 chapter fifty-nine, and other provisions of this chapter shall be a lien on the personal property so
6 taxed, as well as all after acquired consumer goods, equipment and inventory and the proceeds
7 from the sale of any such personal property until the lien is terminated as provided in this
8 section.

9 The assessment of personal property taxes by a municipal board of assessors shall have
10 the force and effect of a signed security agreement under the provisions of chapter one hundred-

11 six, hereinafter referred to in this section as “the Uniform Commercial Code.” The lien shall
12 have the force and effect of an unperfected lien in accordance with the provisions of the Uniform
13 Commercial Code and once perfected shall have the force and effect of a perfected lien in
14 accordance with the provisions of the Uniform Commercial Code.

15 The unperfected lien shall be perfected upon: (1) nonpayment of the tax, including partial
16 nonpayment, fourteen days after the mailing of a demand in accordance with section sixteen of
17 this chapter; and, (2) the filing of a financing statement by the municipal collector at the office of
18 the state secretary in accordance with the provisions of the Uniform Commercial Code, provided
19 that the collector may file a financing statement no earlier than fourteen days following the
20 mailing of a demand to the taxpayer.

21 The collector shall, upon perfection of the lien, add the cost of filing the financing
22 statement and the cost of filing a termination statement plus an additional fee of five dollars for
23 the preparation of the financing statement and an additional fee of five dollars for the preparation
24 of a termination statement to the balance due.

25 If it appears to the collector that a filed financing statement is going to lapse, the collector
26 shall file a continuation statement, as well as succeeding continuation statements in accordance
27 with the provisions of the Uniform Commercial Code, to continue the effectiveness of the initial
28 financing statement, adding to the balance due the cost of filing each necessary continuation
29 statement plus a fee of five dollars for their preparation.

30 Once the balance due, including the tax, accrued interest, incidental charges, and fees as
31 provided by chapter fifty-nine and other provisions of this chapter have been fully abated or fully
32 paid the lien provided for under this section shall terminate, and if the lien was perfected, the

33 collector or an assignee of the collector shall file a termination statement at the office of the state
34 secretary in accordance with the provisions of the Uniform Commercial Code.

35 The collector may assign an underlying personal property tax receivable in accordance
36 with the procedures provided for in section 2C of this chapter provided that the provisions of the
37 Uniform Commercial Code governing the assignment of a lien are also followed. In the event of
38 a direct conflict between section 2C of this chapter and the provisions of the Uniform
39 Commercial Code, the provisions of the Uniform Commercial Code shall control as to the
40 assignment of the lien and the provisions of this chapter shall control as to the assignment of the
41 tax receivable.

42 If a tax receivable and lien has not previously been assigned, the collector shall assign the
43 tax receivable and the lien, in accordance with the provisions of the Uniform Commercial Code,
44 to any other secured party holding a concurrent lien in the same personal property, regardless of
45 when the other secured party's interest was perfected, if that secured party fully pays the balance
46 due to the collector.

47 All remedies available to holders of secured interests under the provisions of the Uniform
48 Commercial Code for default of an underlying obligation shall be available to the collector or to
49 an assignee to collect the balance due and the use of the provisions of the Uniform Commercial
50 Code by the collector or an assignee shall not interfere with the ability of the collector or an
51 assignee to use other remedies, including the further accrual of interest on the tax receivable, as
52 provided in chapter fifty-nine, this chapter or any other applicable provision of law to collect the
53 balance due.

54 All terms used in this section shall be defined by reference to those terms as they are used
55 under the Uniform Commercial Code unless specific reference is made in this section to another
56 provision of law.

57 SECTION 2. Section 95 of Chapter 60 is hereby amended by inserting at the end of the
58 first sentence the words:-- “; and upon the filing of a financing statement in accordance with the
59 provisions of Section 37C and the provisions of the Uniform Commercial Code, with the amount
60 of uncollected personal property taxes represented by the financing statement.”

61 SECTION 3. This act shall take effect upon its passage.