§175-A. Tax lien

1. Filing. Before August 1, 2017, if any tax imposed by this Title or imposed by any other provision of law and authorized to be collected by the bureau is not paid when due and no further administrative or judicial review of the assessment is available pursuant to law, the assessor may file in the registry of deeds of any county, with respect to real property, or in the office of the Secretary of State, with respect to property of a type a security interest in which may be perfected by a filing in such office under Title 11, Article 9-A, a notice of lien specifying the amount of the tax, interest, penalty and costs due, the name and last known address of the person liable for the amount and, in the case of a tax imposed by this Title, the fact that the assessor has complied with all the provisions of this Title in the assessment of the tax. The lien arises at the time the assessment becomes final and constitutes a lien upon all property, whether real or personal, then owned or thereafter acquired by that person in the period before the expiration of the lien. The lien imposed by this section is not valid against any mortgagee, pledgee, purchaser, judgment creditor or holder of a properly recorded security interest until notice of the lien has been filed by the assessor, with respect to real property, in the registry of deeds of the county where such property is located and, with respect to personal property, in the office in which a financing statement for such personal property is normally filed. Notwithstanding this subsection, a tax lien upon personal property does not extend to those types of personal property not subject to perfection of a security interest by means of the filing in the office of the Secretary of State. The lien is prior to any mortgage or security interest recorded, filed or otherwise perfected after the notice, other than a purchase money security interest perfected in accordance with Title 11, Article 9-A. In the case of any mortgage or security interest properly recorded or filed prior to the notice of lien that secures future advances by the mortgagee or secured party, the lien is junior to all advances made within 45 days after filing of the notice of lien, or made without knowledge of the lien or pursuant to a commitment entered into without knowledge of the lien. Subject to the limitations in this section, the lien provided in this subsection has the same force, effect and priority as a judgment lien and continues for 10 years from the date of recording unless sooner released or otherwise discharged. The lien may, within the 10-year period, or within 10 years from the date of the last extension of the lien in the manner provided in this subsection, be extended by filing for record in the appropriate office a copy of the notice and, from the time of filing, that lien must be extended for 10 years unless sooner released or otherwise discharged.

This subsection applies to assessments made before August 1, 2017.
[PL 2017, c. 211, Pt. A, §2 (AMD).]

1-A. Filing of tax lien. Beginning August 1, 2017, if any tax imposed by this Title or any tax imposed by any other provision of law and authorized to be collected by the bureau is not paid when due and no further administrative or judicial review of the assessment is available pursuant to law, the amount of the assessment, including the tax, interest, penalties and costs, is a lien in favor of the assessor. The lien arises at the time the assessment is made and constitutes a lien upon all property, whether real or personal, owned by the person liable for the assessment at the time the lien arises or acquired by that person in the period after the lien arises until the expiration of the lien. The assessor may file in the registry of deeds of any county, with respect to real property, or in the office of the Secretary of State, with respect to property of a type for which a security interest may be perfected by a filing in such office under Title 11, Article 9-A, a notice of lien specifying the amount of the tax, interest, penalties and costs due, the name and last known address of the person liable for the amount and, in the case of a tax imposed by this Title, the fact that the assessor has complied with all the provisions of this Title in the assessment of the tax. Filing of the lien by the assessor constitutes notice of lien for, and secures payment of, both the original assessment and all subsequent assessments of tax against the same person, until such time as the lien is released or otherwise discharged as provided for in this section. The lien imposed by this section is not valid against any mortgagee, pledgee, purchaser, judgment creditor or holder of a properly recorded security interest until notice of the lien has been

filed by the assessor, with respect to real property, in the registry of deeds of the county where such property is located and, with respect to personal property, in the office in which a financing statement for such personal property is normally filed. Notwithstanding this subsection, a tax lien upon personal property does not extend to those types of personal property not subject to perfection of a security interest by means of the filing in the office of the Secretary of State. The lien is prior to any mortgage or security interest recorded, filed or otherwise perfected after the notice, other than a purchase-money security interest perfected in accordance with Title 11, Article 9-A and except as provided in Part 2. In the case of any mortgage or security interest properly recorded or filed prior to the notice of lien that secures future advances by the mortgagee or secured party, the lien is junior to all advances made within 45 days after filing of the notice of lien, or made without knowledge of the lien or pursuant to a commitment entered into without knowledge of the lien. Subject to the limitations in this section, the lien provided in this subsection has the same force, effect and priority as a judgment lien and continues for 10 years from the date of recording unless sooner released or otherwise discharged. The lien may, within the 10-year period, or within 10 years from the date of the last extension of the lien in the manner provided in this subsection, be extended by filing for record in the appropriate office a copy of the notice and, from the time of filing, that lien must be extended for 10 years unless sooner released or otherwise discharged. If the lien is extended within the 10-year period, or within 10 years from the date of the last extension of the lien as provided for in this subsection, the extended lien relates back to the date the lien was first filed.

This subsection applies to assessments made on or after August 1, 2017.
[PL 2017, c. 211, Pt. A, §3 (NEW).]

2. Release. The assessor shall issue to the taxpayer a certificate of release of the lien or release all or any portion of the property subject to any lien provided for in this Part or subordinate the lien to other liens if:

A. The assessor finds that the liability for the amount demanded, together with costs, has been satisfied or has become unenforceable by reason of lapse of time; [PL 1997, c. 526, §10 (AMD).]

B. A bond is furnished to the assessor with surety approved by the assessor in a sum sufficient to equal the amount demanded, together with costs, and conditioned upon payment of any judgment rendered in proceedings regularly instituted by the assessor to enforce collection of the bond at law or of any amount agreed upon in writing by the assessor to constitute the full amount of the liability; [PL 1997, c. 526, §10 (AMD).]

C. The assessor determines at any time that the interest of this State in the property has no value; or [PL 1997, c. 526, §10 (AMD).]

D. The assessor determines that the taxes are sufficiently secured by a lien on other property of the taxpayer or that the release or subordination of the lien will not endanger or jeopardize the collection of the taxes. [PL 1997, c. 526, §10 (AMD).]
[PL 1997, c. 526, §10 (AMD).]

3. Enforcement. The lien provided for by subsection 1 or 1-A may be enforced at any time after the tax liability with respect to which the lien arose becomes collectible under section 173, subsection 1 by a civil action brought by the Attorney General in the name of the State in the Superior Court of the county in which the property is located to subject any property, of whatever nature, in which the taxpayer has any right, title or interest, to the payment of such tax or liability. The court shall, after the parties have been duly notified of the action, proceed to adjudicate all matters involved in the action and finally determine the merits of all claims to and liens upon the property and, in all cases where a claim or interest of the State therein is established, may decree a sale of the property by the proper officer of the court and a distribution of the proceeds of such sale according to the findings of the court. If the property is sold to satisfy a lien held by the State, the State may bid at the sale such sum, not exceeding the amount of that lien plus expenses of sale, as the assessor directs.

[PL 2017, c. 211, Pt. A, §4 (AMD).]

4. Recording fees part of tax liability. Fees paid by the assessor to registrars of deeds for recording notices of lien pursuant to subsection 1 or 1-A and notices of release of a lien pursuant to subsection 2 may be added to the tax liability that gave rise to the lien and, in the case of a tax imposed by this Title, may be collected by all the methods provided for in chapter 7. In the case of other obligations owed to the State and authorized to be collected by the bureau, the fees may be collected by any collection method authorized by this section or section 176-A.
[PL 2017, c. 211, Pt. A, §5 (AMD).]

5. Inheritance tax. Notwithstanding the other provisions of this Title, a lien for inheritance tax resulting from the operation of former section 3404 with regard to real property of a decedent who died prior to July 1, 1986 is released.
[PL 2017, c. 16, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 402, §A179 (NEW). PL 1993, c. 395, §§3-5 (AMD). PL 1995, c. 281, §7 (AMD). RR 1997, c. 1, §28 (COR). PL 1997, c. 526, §10 (AMD). PL 1999, c. 699, §D26 (AMD). PL 1999, c. 699, §D30 (AFF). PL 2017, c. 16, §1 (AMD). PL 2017, c. 211, Pt. A, §§2-5 (AMD).

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