

# SENATE NO. 1750

## **AN ACT** RELATING TO THE COLLECTION OF PERSONAL PROPERTY

*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 sixty of the general laws shall be amended by inserting the following new  
2 section:

3 Section 37C Security Interest on taxable personal property

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

9 The assessment of personal property taxes by a municipal board of assessors shall have the force and  
10 effect of a signed security agreement under the provisions of chapter one hundred-six, hereinafter  
11 referred to in this section as “the Uniform Commercial Code.” The security interest shall have the  
12 force and effect of an unperfected security interest in accordance with the provisions of the Uniform  
13 Commercial Code and once perfected shall have the force and effect of a perfected security interest in  
14 accordance with the provisions of the Uniform Commercial Code.

15 The unperfected security interest 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 this  
17 chapter; and, (2) the filing of a financing statement by the municipal collector at the office of the state  
18 secretary in accordance with the provisions of the Uniform Commercial Code, provided that the  
19 collector may file a financing statement no earlier than fourteen days following the mailing of a  
20 demand to the taxpayer.

21 The collector shall, upon perfection of the security interest, 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 the  
23 preparation of the financing statement and an additional fee of five dollars for the preparation of a  
24 termination statement to the balance due.

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

30 Once the balance due, including the tax, accrued interest, incidental charges, and fees as provided by  
31 chapter fifty-nine and other provisions of this chapter have been fully abated or fully paid the security  
32 interest provided for under this section shall terminate, and if the security interest 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 with the  
36 procedures provided for in section 2C of this chapter provided that the provisions of the Uniform  
37 Commercial Code governing the assignment of a security interest are also followed. In the event of a  
38 direct conflict between section 2C of this chapter and the provisions of the Uniform Commercial Code,  
39 the provisions of the Uniform Commercial Code shall control as to the assignment of the security  
40 interest and the provisions of this chapter shall control as to the assignment of the tax receivable.

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

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

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

55 SECTION 2

56 Section ninety-five of chapter sixty is hereby amended by inserting the following at the end of the first  
57 sentence:

58 “; and upon the filing of a financing statement in accordance with the provisions of section thirty-  
59 seven C and the provisions of the Uniform Commercial Code, with the amount of uncollected personal  
60 property taxes represented by the financing statement.”