HOUSE DOCKET, NO. 2005 FILED ON: 1/20/2011

HOUSE . . . . . No. 2500

The Commonwealth of Massachusetts

PRESENTED BY:

Thomas P. Conroy

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:	DATE ADDED:
Thomas P. Conroy	*13th Middlesex*	*1/20/2011*
John V. Fernandes	*10th Worcester*	*1/26/2011*
Michael O. Moore		*1/26/2011*
Cory Atkins	*14th Middlesex*	*1/26/2011*
John H. Rogers	*12th Norfolk*	*2/4/2011*

HOUSE DOCKET, NO. 2005 FILED ON: 1/20/2011

HOUSE . . . . . No. 2500

By Mr. Conroy of Wayland, a petition (accompanied by bill, House, No. 2500) of Thomas P. Conroy and others for legislation relative to the collection of personal property taxes. Revenue.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *1355* OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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:

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

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

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

six, hereinafter referred to in this section as "the Uniform Commercial Code." The security interest shall have the force and effect of an unperfected security interest in accordance with the provisions of the Uniform Commercial Code and once perfected shall have the force and effect of a perfected security interest in accordance with the provisions of the Uniform Commercial Code.

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

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

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

Once the balance due, including the tax, accrued interest, incidental charges, and fees as provided by chapter fifty-nine and other provisions of this chapter have been fully abated or fully

paid the security interest provided for under this section shall terminate, and if the security interest was perfected, the collector or an assignee of the collector shall file a termination statement at the office of the state secretary in accordance with the provisions of the Uniform Commercial Code.

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

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

All remedies available to holders of secured interests under the provisions of the Uniform Commercial Code for default of an underlying obligation shall be available to the collector or to an assignee to collect the balance due and the use of the provisions of the Uniform Commercial Code by the collector or an assignee shall not interfere with the ability of the collector or an assignee to use other remedies, including the further accrual of interest on the tax receivable, as

provided in chapter fifty-nine, this chapter or any other applicable provision of law to collect the balance due.

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

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