

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 941

Short Title: Property Tax Liens Priority.

(Public)

Sponsors: Senators Warren; Hoyle, Ballance, Edwards, Sherron, and Carpenter.

Referred to: Finance.

April 21, 1993

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE LAW REGARDING TAX LIENS TO PROVIDE THAT
LOCAL GOVERNMENT PROPERTY TAX LIENS HAVE PRIORITY OVER
STATE TAX LIENS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-356(a) reads as rewritten:

"(a) On Real Property. – The lien of taxes imposed on real and personal property shall attach to real property at the time prescribed in G.S. 105-355(a). The priority of that lien shall be determined in accordance with the following rules:

(1) ~~Subject to the provisions of the Revenue Act prescribing the priority of the lien for State taxes, the~~ The lien of taxes imposed under the provisions of this Subchapter shall be superior to all other liens, assessments, charges, rights, and claims of any and every kind in and to the real property to which the lien for taxes attaches regardless of the claimant and regardless of whether acquired prior or subsequent to the attachment of the lien for taxes.

(2) The liens of taxes of all taxing units shall be of equal dignity.

(3) The priority of the lien for taxes shall not be affected by transfer of title to the real property after the lien has attached, nor shall it be affected by the death, receivership, or bankruptcy of the owner of the real property to which the lien attaches."

Sec. 2. G.S. 105-241 reads as rewritten:

"§ 105-241. Taxes payable in national currency; for what period, and when a lien; priorities.

1 The taxes herein designated and levied shall be payable in the existing national
2 currency. State, county, and municipal taxes levied for any and all purposes pursuant to
3 this Subchapter shall be for the fiscal year of the State in which they become due,
4 except as otherwise provided, and the lien of such taxes shall attach annually to all real
5 estate of the taxpayer within the State on the date that such taxes are due and payable,
6 and said lien shall continue until such taxes, with any interest, penalty, and costs which
7 shall accrue thereon, shall have been paid; in the settlement of the estate of any
8 decedent where, by any order of court or other proceeding, the real estate of the
9 decedent has been sold to make assets to pay debts, such sale shall not have the effect of
10 extinguishing the lien upon the land so sold for State taxes, nor shall the same be
11 postponed in any manner to the payment of any other claim or debt against the estate,
12 save funeral expenses and cost of administration.

13 ~~Provided, however, that the lien of State taxes shall not be~~ A State tax lien on real
14 property is inferior to a local ad valorem tax lien on real property as provided in G.S.
15 105-356(a). A State tax lien is not enforceable as against bona fide purchasers for
16 value, and as against duly recorded mortgages, deeds of trust and other recorded
17 specific liens, as to real estate, except upon docketing of a certificate of tax liability or a
18 judgment in the office of the clerk of the superior court of the county wherein the real
19 estate is situated, and as to personality, except upon a levy upon such property under an
20 execution or a tax warrant, and the priority of the State's tax lien against property in the
21 hands of bona fide purchasers for value, and as against duly recorded mortgages, deeds
22 of trust and other recorded specific liens, shall be determined by reference to the date
23 and time of docketing of judgment or certificate of tax liability or the levy under
24 execution or tax warrant. Provided further, that in the event any taxpayer shall execute
25 an assignment for the benefit of creditors, or if receivership, a creditor's bill or other
26 insolvency proceedings are instituted against any taxpayer indebted in the State on
27 account of any taxes levied by the State, the lien of State taxes shall attach to any and all
28 property of such taxpayer or of such insolvent's estate as of the date and time of the
29 execution of the assignment for the benefit of creditors or of the institution of
30 proceedings herein mentioned and shall be subject only to prior recorded specific liens
31 and reasonable costs of administration. Notwithstanding the provisions of this
32 paragraph, the provisions contained in G.S. 105-164.38 shall remain in full force and
33 effect with respect to the lien of sales taxes.

34 The provisions of this section shall not have the effect of releasing any lien for State
35 taxes imposed by other law, nor shall they have the effect of postponing the payment of
36 the said State taxes or depriving the said State taxes of any priority in order of payment
37 provided in any other statute under which payment of the said taxes may be required."

38 Sec. 3. This act is effective upon ratification.