

79-3413. Lien for taxes; interest and penalties; notice; recordation; sale of personal property; duties of officers and others.

Whenever any person, liable to this state for any taxes, penalties and interest imposed by, or accumulated under, the provisions of this act, shall fail, neglect or refuse to pay the full amount of such taxes, penalties and interest when the same is due, the director shall deliver by mail or otherwise to the register of deeds of the county in which such person resides, or has its principal place of business in this state, a certified notice of lien setting forth the name and address of the person so liable, the amount of all taxes, penalties and interest due from such person to the state, and that such sums are due under the provisions of this act.

The director may also deliver such notice of lien as aforesaid to the register of deeds of any county in this state in which the person liable for such taxes, interest or penalties has any property, real or personal. All such taxes, interest and penalties shall be and constitute a lien upon all the personal property of the person so liable located in this state and upon all real estate belonging to such person and located in the county in which such notice of lien shall be filed, from the time of the filing of such notice of lien and until all said taxes, interest and penalties are paid in full. It shall be the duty of each register of deeds in this state to index and file immediately all such notices of lien in the manner provided in cases of chattel mortgages, and no fee shall be charged for such filing and indexing. The director may issue a certificate of release of lien upon request whenever all taxes, interest and penalties for which such person is liable, whether set forth in such notice of lien or not, have been fully paid and satisfied, and such person may file the same with the register of deeds of any county in which such notice of lien has been filed. The lien provided in favor of the state by this section shall be superior to all other liens which shall accrue or attach on the property of the person liable subsequent to the filing of such notice of lien.

The state director or his or her deputy or agent may, or any sheriff or constable, in his or her jurisdiction, upon written instruction of the director, shall, at any time after such lien accrues, seize and hold all personal property subject thereto and proceed to advertise and sell the same, or so much thereof as shall be necessary to satisfy the amount of the state's lien, together with all expenses of selling, at public sale for cash, upon such notice as is provided by law in the case of a chattel-mortgage sale. Any surplus of the proceeds of such sale, after paying the amount of the lien of the state thereon and the costs of the officers in giving notice of and holding such sale, and securing and preserving the property pending such sale, shall be delivered to the person or persons lawfully entitled thereto.

Every assignee, sheriff, receiver, trustee or other officer who shall seize or take possession of any property or estate of any distributor, manufacturer or importer or of any person liable to the state for any taxes, interest or penalties accruing under the provisions of this act, shall promptly, upon so doing, notify the director in writing of the title of the cause or proceeding in which such officer was appointed or is acting, and the property which has been seized or taken into possession, with the purpose for which same was taken; and in case of an order on creditors to file claims, shall furnish notice thereof to the director. It shall be the duty of the director to furnish to any person having an interest therein, and applying therefor, a true statement of the amount of taxes, penalties and interest shown in the records of said director to be due from any distributor, manufacturer or importer but such statement shall not preclude the director from asserting any claim or lien for taxes, interest or penalties which shall subsequently accrue or be discovered.

History: L. 1933, ch. 317, § 13; L. 1939, ch. 330, § 10; Sept. 2.