

CHAPTER NO. 678

HOUSE BILL NO. 3014

By Representative Kisber

Substituted for: Senate Bill No. 3039

By Senator Haynes

AN ACT to amend Tennessee Code Annotated, Section 67-4-409(b).

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-4-409, is amended by deleting subdivision (b)(7) and by substituting instead the following:

(b)

(7)

(i) If some of the property securing the payment of the indebtedness is located in Tennessee and some is located outside of Tennessee, as an optional method of computing the tax, the tax may be apportioned and paid on the basis of the ratio of the value of the Tennessee collateral to the value of all collateral, by applying the following mathematical formula:

$$\frac{\text{value of Tennessee collateral}}{\text{value of total collateral}} = \text{___\%} \times \text{indebtedness} = \text{taxable Tennessee indebtedness}$$

If the tax is apportioned pursuant to this subdivision (b)(7), no evidence of the calculation or statement thereof shall be required in addition to the statement required by subdivision (b)(5)(C), which shall be completed with the amount resulting from the calculation made pursuant to this subdivision (b)(7).

(ii) For purposes of the apportionment calculation allowed in this subdivision:

(A) "Collateral" means any real property or personal property securing the indebtedness evidenced by the instrument to be filed or recorded.

(B) "Mobile goods" means goods that are mobile and that are of a type normally used in more than one (1) jurisdiction, such as trailers, rolling stock, airplanes, shipping containers, road building and construction machinery, commercial harvesting machinery and the like.

(C) "Taxable Tennessee indebtedness" means the amount of "indebtedness" on which tax is to be calculated as provided in subdivision (b)(4) above, with the two thousand dollar (\$2,000) exemption to be applied to the taxable Tennessee indebtedness.

(D) "Tennessee collateral" means all collateral in which a security interest, deed of trust, mortgage lien or other consensual lien is perfected by filing or recording one or more instruments in the state of Tennessee or by other methods where the laws of the state of Tennessee govern perfection; provided, however, that the Tennessee collateral of a debtor that is located in Tennessee (as determined pursuant to Tennessee Code Annotated, Section 47-9-307) does not include such debtor's interests in:

(1) any personal property physically located outside the state of Tennessee, including goods (other than mobile goods) and any property that is of a type in which a security interest could be perfected by possession under Tennessee law if such property were located in Tennessee (such as certificated securities, chattel paper, documents, instruments and money), or

(2) unless such debtor's chief executive office is also located in the state of Tennessee, any intangible property and mobile goods. Any subsequent change in the location of the debtor or any collateral, in the facts supporting the categorization of any particular collateral, or in the relative quantities or values of collateral shall not in itself result in the imposition of additional tax.

(E) "Total collateral" means all collateral, including the Tennessee collateral.

(F) "Value" of collateral means the value that the collateral would command at a fair and voluntary sale.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: April 17, 2002



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES



JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 24th day of April 2002



DON SUNDQUIST, GOVERNOR