

1 ENGROSSED HOUSE
2 BILL NO. 2734

By: Fetgatter of the House

3 and

4 Montgomery of the Senate

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7 An Act relating to revenue and taxation; amending 68
8 O.S. 2011, Section 234, which relates to the Uniform
9 Tax Procedure Code; requiring notice to Tax
10 Commission with respect to certain intangible
11 personal property; providing for determination of
12 liens; providing for compliance with certain
13 statutory requirements related to filing and
14 indexing; providing an effective date; and declaring
15 an emergency.

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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 68 O.S. 2011, Section 234, is
amended to read as follows:

Section 234. A. All taxes, interest and penalties imposed by
the provisions of Section 201 et seq. of this title, or any state
tax law, are hereby declared to constitute a lien in favor of the
state upon all franchises, property, and rights to property, whether
real or personal, then belonging to or thereafter acquired by the
person owing the tax, whether such property is employed by such
person in the prosecution of business, or is in the hands of an
assignee, trustee or receiver for the benefit of creditors, from the

1 date the taxes are due and payable under the provisions of the state
2 tax laws levying such taxes. The lien shall be in addition to any
3 lien accrued by the filing of a tax warrant or tax certificate as
4 provided by Sections 230 and 231 of this title. The lien shall be
5 prior, superior and paramount to all other liens, claims, or
6 encumbrances on the property of whatsoever kind or character, except
7 those of any bona fide mortgagee, pledgee, judgment creditor, or
8 purchaser, whose right shall have attached prior to the date of the
9 filing and indexing in the office of the county clerk in the county
10 in which the property is located, of the notice of the lien of the
11 state under a tax certificate as provided by Section 230 of this
12 title, or under a tax warrant as provided by Section 231 of this
13 title, and who have filed or recorded the mortgages and conveyances
14 in the office of the county clerk of the county in which the
15 property is located. Such taxes, penalties and interest shall at
16 all times, constitute a prior, superior and paramount claim as
17 against the claims of unsecured creditors. The lien of the state
18 shall continue until the amount of the tax and penalty due and
19 owing, and interest subsequently accruing thereon, is paid, or,
20 except as otherwise provided herein, upon the expiration of ten (10)
21 years after the date of the filing and indexing in the office of the
22 county clerk in the county in which the property is located, of the
23 notice of the lien of the state under a tax certificate as provided
24 by Section 230 of this title, or under a tax warrant as provided by

1 Section 231 of this title; provided, the Oklahoma Tax Commission
2 may, prior to the expiration of the ten-year period provided for
3 herein, refile the notice of the lien with the county clerk. A
4 notice so refiled shall continue the lien until payment of the tax,
5 penalty, interest and costs, or upon the expiration of ten (10)
6 years after the date upon which the notice was refiled. All active
7 liens evidenced by a notice of lien filed with a county clerk's
8 office prior to November 1, 1989, shall be released and extinguished
9 if the notice of lien is not refiled prior to November 1, 2001.

10 B. In any action affecting the title to real estate or the
11 ownership or right to possession of personal property, the State of
12 Oklahoma may be made a party defendant, for the purpose of
13 determining its lien upon the property involved therein only in
14 cases where notice of the lien of the state has been filed and
15 indexed as provided in Sections 230 and 231 of this title. In any
16 such action, service of summons upon the Oklahoma Tax Commission, by
17 serving any member thereof, shall be sufficient service and binding
18 upon the State of Oklahoma. In all such actions or suits, the
19 complaint or pleading shall include the name and address of the
20 taxpayer whose liability created the lien and the identifying number
21 evidencing the lien.

22 C. In any action affecting the ownership or right of possession
23 of intangible personal property, such as a settlement or court
24 judgment, the Tax Commission shall be given notice of such action

1 for the purpose of determining its lien upon the property involved
2 therein in cases where notice of the lien of the state has been
3 filed and indexed as provided in Sections 230 and 231 of this title.

4 SECTION 2. This act shall become effective July 1, 2019.

5 SECTION 3. It being immediately necessary for the preservation
6 of the public peace, health or safety, an emergency is hereby
7 declared to exist, by reason whereof this act shall take effect and
8 be in full force from and after its passage and approval.

9 Passed the House of Representatives the 12th day of March, 2019.

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12 Presiding Officer of the House
of Representatives

13 Passed the Senate the ____ day of _____, 2019.

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Presiding Officer of the Senate