

An Act

ENROLLED HOUSE
BILL NO. 2734

By: Fetgatter of the House

and

Montgomery of the Senate

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

SUBJECT: Uniform Tax Procedure Code

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 date the taxes are due and payable under the provisions of the state tax laws levying such taxes. The lien shall be in addition to any lien accrued by the filing of a tax warrant or tax certificate as provided by Sections 230 and 231 of this title. The lien shall be prior, superior and paramount to all other liens, claims, or

encumbrances on the property of whatsoever kind or character, except those of any bona fide mortgagee, pledgee, judgment creditor, or purchaser, whose right shall have attached prior to the date of the filing and indexing in the office of the county clerk in the county in which the property is located, of the notice of the lien of the state under a tax certificate as provided by Section 230 of this title, or under a tax warrant as provided by Section 231 of this title, and who have filed or recorded the mortgages and conveyances in the office of the county clerk of the county in which the property is located. Such taxes, penalties and interest shall at all times, constitute a prior, superior and paramount claim as against the claims of unsecured creditors. The lien of the state shall continue until the amount of the tax and penalty due and owing, and interest subsequently accruing thereon, is paid, or, except as otherwise provided herein, upon the expiration of ten (10) years after the date of the filing and indexing in the office of the county clerk in the county in which the property is located, of the notice of the lien of the state under a tax certificate as provided by Section 230 of this title, or under a tax warrant as provided by Section 231 of this title; provided, the Oklahoma Tax Commission may, prior to the expiration of the ten-year period provided for herein, refile the notice of the lien with the county clerk. A notice so refiled shall continue the lien until payment of the tax, penalty, interest and costs, or upon the expiration of ten (10) years after the date upon which the notice was refiled. All active liens evidenced by a notice of lien filed with a county clerk's office prior to November 1, 1989, shall be released and extinguished if the notice of lien is not refiled prior to November 1, 2001.

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

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

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

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

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

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

Presiding Officer of the House
of Representatives

Passed the Senate the 25th day of April, 2019.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____