

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL 346

By: Bice

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5
6 AS INTRODUCED

7 An Act relating to property subject to forced sale;
8 amending 12 O.S. 2011, Sections 759 and 762, which
9 relate to property subject to judgment lien;
10 modifying procedure for appraisal of property;
11 requiring written affidavit of impartiality;
12 requiring appraisals to be based on current market
value; authorizing the Administrative Director of the
Courts to approve certain forms; providing
requirements for certain documentation; modifying
certain valuation; and providing an effective date.

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

15 SECTION 1. AMENDATORY 12 O.S. 2011, Section 759, is
16 amended to read as follows:

17 Section 759. A. When a general execution is issued and placed
18 in the custody of a sheriff for levy, a certified copy of the
19 execution shall be filed in the office of the county clerk of the
20 county whose sheriff holds the execution and shall be indexed in the
21 same manner as judgments. At the time the execution is filed, the
22 court clerk shall collect from the party seeking a general execution
23 all fees necessary for the payment of the disinterested persons or a
24 legal entity for ~~their~~ services in appraising ~~of~~ the subject

1 property pursuant to the requirements of subsection B of this
2 section.

3 B. If a general or special execution is levied upon lands and
4 tenements, the sheriff shall endorse on the face of the writ the
5 legal description and shall have three disinterested persons who
6 have taken an oath to impartially appraise the property levied on or
7 a legal entity which has provided a written affidavit of
8 impartiality, ~~upon actual view,~~ and the disinterested persons or
9 legal entity shall return to the officer ~~their~~ a signed estimate of
10 the real value of the property. The estimates shall be obtained
11 from three disinterested persons, independent from one another, or a
12 disinterested legal entity using at least three independent,
13 disparate and credible sources, each of which has estimated the
14 current market value of the subject property independently from one
15 another. The disinterested persons or legal entity shall be paid
16 for ~~their~~ such services by the court clerk of the county where the
17 property is located within thirty (30) days of the date that they
18 return their estimate of the real value of the property. The
19 Administrative Director of the Courts is authorized to approve forms
20 for the written affidavit of impartiality and the signed estimate of
21 the real value of the property. The written affidavit and the
22 signed estimate shall be substantially in the form approved.

23 C. To extend a judgment lien beyond the initial or any
24 subsequent statutory period, prior to the expiration of such period,

1 a certified copy of one of the following must be filed and indexed
2 in the same manner as judgments in the office of the county clerk in
3 the county in which the statement of judgment was filed and the lien
4 thereof is sought to be retained:

- 5 1. A general execution upon the judgment;
- 6 2. A notice of renewal of judgment;
- 7 3. A garnishment summons issued against the judgment debtor; or
- 8 4. A notice of income assignment sent to a payor of the
9 judgment debtor.

10 SECTION 2. AMENDATORY 12 O.S. 2011, Section 762, is
11 amended to read as follows:

12 Section 762. If, upon such return, as aforesaid, it ~~appear~~
13 appears, by the inquisition, that two-thirds (2/3) of the appraised
14 current market value of ~~said~~ the lands and tenements, so levied upon
15 is sufficient to satisfy the execution, with costs, the judgment on
16 which such execution issued shall not operate as a lien on the
17 residue of the debtor's estate, to the prejudice of any other
18 judgment creditor; but no such property shall be sold for less than
19 two-thirds (2/3) of the value returned in the inquest; and nothing
20 in this section contained shall, in any wise, extend to affect the
21 sale of lands by the state, but all lands, the property of
22 individuals indebted to the state for any debt or taxes, or in any
23 other manner, shall be sold without valuation, for the discharge of
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1 such debt or taxes, agreeably to the laws in such cases made and
2 provided.

3 SECTION 3. This act shall become effective November 1, 2019.
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