

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2734

By: Fetgatter

6 AS INTRODUCED

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.

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

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

17 Section 234. A. All taxes, interest and penalties imposed by  
18 the provisions of Section 201 et seq. of this title, or any state  
19 tax law, are hereby declared to constitute a lien in favor of the  
20 state upon all franchises, property, and rights to property, whether  
21 real or personal, then belonging to or thereafter acquired by the  
22 person owing the tax, whether such property is employed by such  
23 person in the prosecution of business, or is in the hands of an  
24 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.

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