

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2211

BY: STEIDLEY

AS INTRODUCED

AN ACT RELATING TO REVENUE AND TAXATION; AMENDING 68 O.S. 1991, SECTIONS 231 AND 231.1, WHICH RELATE TO DELINQUENT TAX WARRANTS; AUTHORIZING THE OKLAHOMA TAX COMMISSION TO FILE SUCH WARRANTS WITH THE COUNTY CLERK; MODIFYING PROCEDURE FOR EXECUTING SUCH WARRANTS; MODIFYING AMOUNT OF CERTAIN ADDITIONAL PENALTY AND PROCEDURES RELATED THERETO; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 231, is amended to read as follows:

Section 231. (a) If any tax, imposed or levied by any state tax law, or any portion of said tax, be not paid before the same becomes delinquent, the Tax Commission may immediately issue a warrant under its official seal, directed to the sheriff of any county of the state, commanding him to levy upon and sell without any appraisement or valuation any real or personal property of the taxpayer found within his county for the payment of the delinquent tax, interest and penalties, and the cost of executing the warrant, and to return such warrant to the Tax Commission, and to pay to it any monies

collected by virtue thereof, by a time to be therein specified, not more than sixty (60) days from the date of the warrant.

(b) The ~~sheriff~~ Tax Commission shall, immediately upon ~~receipt~~ issuance of the warrant, file with the county clerk of ~~his~~ the county for which the warrant was issued a copy thereof, and thereupon the county clerk shall record and index such warrant in the same manner as judgments using the name of the taxpayer named in the warrant, a short name for the tax, the amount of the tax or portion thereof, and interest and penalties for which said warrant was issued, and the date and time when such copy was filed. The filing of said warrant in the office of the county clerk of said county, shall constitute and be evidence and notice of the state's lien upon any interest in any real property of the taxpayer against whom such warrant is issued, until such tax, penalty and interest accruing thereon is paid. ~~When a copy of a tax warrant has been filed in the office of the county clerk and the sheriff's return on the tax warrant is "no property found", the Tax Commission shall have all of the remedies and may take all of the proceedings thereon for the collection thereof which may be had or taken upon a judgment recovered in the district court in an action at law.~~ Such lien shall be in addition to any and all other liens existing in favor of the state to secure the payment of said unpaid tax, penalty, interest and costs, and such lien shall be paramount and superior to all other liens of whatsoever kind or character, attaching to any of said property subsequent to the date and time of such filing and shall be in addition to any lien provided by Section 234 of this title.

(c) ~~Such~~ The Tax Commission may forward the filed warrant to the sheriff of the county in which the warrant was filed. Upon receipt of the warrant, such sheriff shall thereupon proceed to execute said tax warrant in the same manner prescribed by law for executions against property upon judgment of a court of record; and such

sheriff shall execute and deliver to the purchaser a bill of sale or deed, as the case may be. When the sheriff's return on the tax warrant is "no property found", the Tax Commission shall have all of the remedies and may take all of the proceedings thereon for the collection thereof which may be had or taken upon a judgment recovered in the district court in an action of law.

(d) Prior to, and continuing after, the time the sheriff must return the warrant to the Tax Commission as provided for in this section, the Tax Commission may levy upon and sell without any appraisal or valuation any real or personal property of any taxpayer identified by the warrant. The Tax Commission may execute said tax warrant in the same manner prescribed by law for executions against property upon judgment of a court of record and may execute and deliver to the purchaser a bill of sale or deed, as the case may be.

(e) Any purchaser, other than the State of Oklahoma, shall be entitled, upon application to the court having jurisdiction of the property, to have confirmation (the procedure for which shall be the same as is now provided for the confirmation of a sale of property under execution) of such sale prior to the issuance of a bill of sale or deed. The State of Oklahoma shall be authorized to make bids at any such sale to the amount of tax, penalty and costs accrued. In the event such bid is successful, the sheriff shall issue proper muniment of title to the Oklahoma Tax Commission which Commission shall hold such title for the use and benefit of the State of Oklahoma; and any taxpayer, or transferee of such taxpayer, shall have the right, at any time within one (1) year from the date of such sale, to redeem such property, upon the payment of all taxes, penalties and costs accrued to the date of redemption. Such applicant shall not be entitled to a credit upon such taxes, penalties and costs, by reason of revenue that might have accrued to the State of Oklahoma or other purchaser under sale, prior to such

redemption. After the expiration of the period of redemption herein provided, the Tax Commission acting for the State of Oklahoma may sell such property at public auction, upon giving thirty (30) days' notice, published in a newspaper of general circulation in the county where such property is located, to the highest and best bidder for cash; and upon a sale had thereof, or when a redemption is made, the Tax Commission, for and on behalf of the State of Oklahoma, shall issue its bill of sale or quit claim deed, as the case may be, to the successful bidder or to the redemptioner. Such muniment of title shall be executed by the Tax Commission, and attested by its secretary, with the seal of the Tax Commission affixed. The sheriff shall be entitled to the same fee for his services in executing the warrant, as he would be entitled to receive if he were executing an execution issued by the court clerk of said county upon a judgment of a court of record.

~~(f) In case of the failure of any sheriff to file a copy of any warrant with the county clerk, as herein prescribed, a certified copy thereof filed by the Tax Commission with the county clerk shall operate with the same force and effect as if it had been filed by said sheriff.~~

~~(g) If any sheriff or other officer shall refuse or neglect to file a copy of any warrant issued by the Tax Commission, within the proper time, or shall neglect or refuse to record and index as prescribed by this section, or shall refuse or neglect to levy upon and sell any real or personal property of any taxpayer as directed by any warrant issued by the Tax Commission, or shall refuse or neglect, on demand, to pay over to the Tax Commission, its agents or attorneys, all monies by him collected or received under any warrant issued by the Tax Commission, at any time after collecting or receiving the same, such sheriff or other officer shall, upon motion of the Tax Commission in court, and after thirty (30) days' notice thereof, in writing, be amerced in the amount for which any such~~

warrant was issued by the Tax Commission, together with all penalties and costs and with an additional penalty of ten percent (10%) thereon, to and for the use of the State of Oklahoma. Every surety of any sheriff or officer shall be made a party to the judgment rendered as aforesaid against the sheriff or other officer.

~~(h)~~ (g) The Tax Commission may expend funds from the Oklahoma Tax Commission Fund in the State Treasury to reimburse the sheriff for travel and administrative costs actually and necessarily incurred while performing duties required by this section. Such costs shall be assessed against the delinquent taxpayer, shall be added to the amount necessary to satisfy the tax warrant, and upon collection thereof shall be deposited in the Oklahoma Tax Commission Fund.

~~(i)~~ (h) A tax warrant issued and filed under authority of this section shall:

1. Constitute and be evidence and notice of the state's lien upon real property; and

2. Not be subject to the provisions of any dormancy statute which would limit the enforceability, effect or operation of the lien.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 231.1, is amended to read as follows:

Section 231.1 An additional penalty of Fifteen Dollars (\$15.00) or an amount equal to ten percent (10%), but not to exceed Two Hundred Dollars (\$200.00), of the total amount of tax, penalty and interest collected in the execution or return of a tax warrant by a sheriff or deputy sheriff of any county or the Oklahoma Tax Commission, whichever amount is greater, is hereby imposed upon each tax debtor who neglects, refuses or fails to pay delinquent taxes. The additional penalty shall be added to and become a part of the total tax debt due the state and may be collected in the same manner as provided by law for collection of delinquent taxes. Provided,

however, the penalty imposed pursuant to this section shall not be assessed or collected more than once for the execution of a tax warrant in each county.

Upon collection of the additional penalty imposed herein, the Oklahoma Tax Commission shall transmit the revenue to the State Treasurer to be deposited in the Oklahoma Tax Commission Fund. The revenue from the additional penalty ~~herein collected during the time prior to the time~~ by the sheriff ~~is required to return the warrant to the Oklahoma Tax Commission~~ shall be apportioned by the Oklahoma Tax Commission to the various county treasurers to be deposited in the appropriate fund of the county sheriff's department to be used by such department to increase efforts to locate tax debtors and their property, to execute upon tax warrants, and to collect delinquent taxes. The revenue from the additional penalty ~~herein collected after the time the sheriff is required to return the warrant to the~~ by the Oklahoma Tax Commission shall be apportioned to the Oklahoma Tax Commission Fund to be used by the Oklahoma Tax Commission to enhance its efforts to collect delinquent taxes. The additional penalty is imposed as a fee for the ~~execution of a tax warrant and the~~ collection of delinquent taxes by the sheriff, undersheriff ~~or~~, deputy sheriff or Tax Commission. Said penalty is in addition to the reimbursement of actual and necessary travel and costs authorized in Section 231 of this title and any other fees which may be allowed by the district court.

SECTION 3. This act shall become effective July 1, 1992.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and 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.

