

SHORT TITLE: Revenue and taxation; providing for expiration of tax liens after 5 years; allowing extension for another 5 years; effective date.

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

SENATE BILL NO. 1120

By: Long (Lewis)

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 1991, Section 234, which relates to the Uniform Tax Procedure Code; modifying time period for which certain tax lien continues; providing for extension thereof; providing that expiration of lien does not relieve taxpayer of obligation to pay tax, penalty and interest; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 234, is amended to read as follows:

Section 234. ~~(a)~~ A. All taxes, interest and penalties imposed by the provisions of this article, 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 said taxes are due and payable under the provisions of the state tax laws levying such taxes. Said 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 ~~Code~~ title. Said lien shall be prior, superior and paramount to all other liens, claims,

or encumbrances on said 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 ~~Code~~ title, or under a tax warrant as provided by Section 231 of this ~~Code~~ title, and who have filed or recorded said 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 said 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 for a period of five (5) years, whichever is greater; provided, if at the expiration of such five-year period, the Oklahoma Tax Commission finds that it is in the best interest of the State of Oklahoma to continue such lien, it may extend the lien for another five-year period. The expiration of such a lien shall not relieve the taxpayer of his obligation to pay the amount of tax, penalty and interest due and owing.

~~(b)~~ 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 ~~Code~~ title; and, 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.

SECTION 2. This act shall become effective September 1, 1994.

