

ENGROSSED HOUSE  
JOINT  
RESOLUTION NO. 1066

By: Webb of the House

and

Shurden of the Senate

A Joint Resolution directing the Secretary of State to refer to the people for their approval or rejection a proposed amendment to Section 2 of Article XII of the Constitution of the State of Oklahoma; prohibiting attachment or filing of notices of federal tax liens; providing notices filed in violation of requirement void; providing federal tax liens have no priority over other forms of secured interests in homestead property; requiring action by Attorney General of the State of Oklahoma; authorizing certain arguments; providing ballot title; and directing filing.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE  
2ND SESSION OF THE 45TH OKLAHOMA LEGISLATURE:

SECTION 1. The Secretary of State shall refer to the people for their approval or rejection, as and in the manner provided by law, the following proposed amendment to Section 2 of Article XII of the Constitution of the State of Oklahoma to read as follows:

Section 2. A. The homestead of the family shall be, and is hereby protected from forced sale for the payment of debts, except for the purchase money therefor or a part of such purchase money, the taxes due thereon, or for work and material used in constructing improvements thereon; nor shall the owner, if married, sell the homestead without the consent of his or her spouse, given in such manner as may be prescribed by law; Provided, Nothing in this article shall prohibit any person from mortgaging his homestead, the spouse, if any, joining therein; nor prevent the sale thereof on foreclosure to satisfy any such mortgage.

B. Pursuant to powers reserved to the State of Oklahoma by the Tenth Amendment to the Constitution of the United States or any other applicable provisions of the Constitution of the United States, no property defined as the homestead pursuant to Oklahoma law shall be subject to the lien of the Internal Revenue Service, its successor in interest, if any, or any other entity responsible for the enforcement or collection of federal income tax or other federal tax revenue. No county clerk or other officer shall accept a notice of federal tax lien for filing in the real property records of the applicable county. No lien for unpaid federal income or other federal taxes shall attach to homestead property. Any notice of a federal tax lien filed in violation of this subsection shall be ineffective to establish a priority as against any other validly perfected interest in the homestead property pursuant to the laws of the State of Oklahoma.

C. Immediately upon adoption of the amendment made by the provisions of Enrolled House Joint Resolution No. 1066 of the 2nd Session of the 45th Oklahoma Legislature, the Attorney General of the State of Oklahoma shall file an original action with the United States Supreme Court pursuant to Article III, Section 2 of the Constitution of the United States to determine the validity of the provisions of subsection B of this section. The Attorney General shall not be limited to reliance upon the Tenth Amendment to the Constitution of the United States in support of the validity of the provisions of subsection B of this section and shall rely upon any applicable provisions of the Constitution of the United States in order to obtain a favorable determination from the United States Supreme Court.

SECTION 2. The Ballot Title for the proposed Constitutional amendment as set forth in SECTION 1 of this resolution shall be in the following form:

BALLOT TITLE

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure amends the Oklahoma Constitution. It amends Section 2 of Article 12. No federal government agency could force the sale of homestead property for unpaid federal taxes. Federal tax liens would not have any effect on homesteads in this state. If the question passes, a lawsuit would be filed. The lawsuit would be filed in the United States Supreme Court. The Attorney General of the state would ask the United States Supreme Court to rule on this new law. The United States Supreme Court would be asked to rule that this new law was legal under federal law. The Attorney General of Oklahoma could argue that the new law was legal because of the Tenth Amendment to the United States Constitution. The Attorney General of the state could argue the new law was legal for other reasons as well.

SHALL THIS AMENDMENT BE APPROVED BY THE PEOPLE?

   / YES, FOR THE AMENDMENT

   / NO, AGAINST THE AMENDMENT

SECTION 3. The Chief Clerk of the House of Representatives, immediately after the passage of this resolution, shall prepare and file one copy thereof, including the Ballot Title set forth in SECTION 2 hereof, with the Secretary of State and one copy with the Attorney General.

Passed the House of Representatives the 5th day of March, 1996.

Speaker \_\_\_\_\_ of the House of  
Representatives

Passed the Senate the \_\_\_\_\_ day of \_\_\_\_\_, 1996.

President

of the Senate