

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

HOUSE JOINT
RESOLUTION NO. 1066

By: Webb

AS INTRODUCED

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 appropriation of funds by Legislature; specifying purpose of funds; 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, 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. The Legislature shall appropriate sufficient funds each year to provide representation in judicial proceedings for persons to assert claims or to present defenses as a result of disputes resulting from the provisions of subsection B of this section.

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

Legislative Referendum No. _____ State Question No. _____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure amends the Oklahoma Constitution. It amends Section 2 of Article 12. The Internal Revenue Service could not force the sale of homestead property for unpaid federal taxes. No other federal government agency could force the sale of homestead property for unpaid federal taxes either. County clerks could not file federal tax liens. Federal tax liens would not have any effect on homesteads in this state. Federal tax liens would not be given effect for purposes of having a

clear title to homestead property. The Legislature would have to make funds available each year. The funds would be used to pay for legal expenses. The expenses would have to be related to court actions involving disagreements about federal tax liens. The disagreements would involve the Internal Revenue Service or other federal agencies and owners of homestead property.

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.

45-2-8821

MAH