

SHORT TITLE: Revenue and taxation; requiring all tax warrants to be filed with Oklahoma Tax Commission; deleting current procedure for filing of tax warrants; effective date; emergency.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 933

By: Wright

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 1991, Sections 231, as last amended by Section 12, Chapter 146, O.S.L. 1993, 234 and 250, as amended by Section 2, Chapter 28, O.S.L. 1993 (68 O.S. Supp. 1995, Sections 231 and 250), which relate to uniform tax procedure; requiring registration of tax warrants filed after certain date; providing that registration constitute certain evidence and notice; deleting certain prohibition; requiring all tax warrants to be filed with the Oklahoma Tax Commission; deleting requirement to establish and maintain certain register of tax warrants; repealing 68 O.S. 1991, Section 230, as amended by Section 1, Chapter 66, O.S.L. 1992 (68 O.S. Supp. 1995, Section 230), which relates to certificates of indebtedness; 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, as last amended by Section 12, Chapter 146, O.S.L. 1993 (68 O.S. Supp. 1995, Section 231), is amended to read as follows:

Section 231. A. If any tax~~7~~ imposed or levied by any state tax law, or any portion ~~of said tax~~ thereof, ~~be is~~ not paid before the same becomes delinquent, the Oklahoma Tax Commission may immediately issue a warrant under its official seal. A tax warrant directed to the sheriff of any county of the state shall command ~~him~~ the sheriff to levy upon and sell without any ~~appraisement~~ appraisal or valuation any real or personal property of the taxpayer found within ~~his~~ the county for the payment of the delinquent tax, interest and penalties, and the cost of executing the warrant, and to return ~~such~~ the 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 1. For tax warrants issued prior to July 1, 1996, the Tax Commission shall, immediately upon issuance of the warrant, file with the county clerk of the county for which the warrant was issued a copy thereof, and thereupon the county clerk shall record and index ~~such~~ the 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~~ the warrant was issued, and the date and time when such copy was filed. The filing of ~~said~~ the 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~~ the tax, penalty and interest accruing thereon ~~is~~ are paid.

Such 2. For tax warrants issued on and after July 1, 1996, the Tax Commission shall register the tax warrant pursuant to the provisions of Section 250 of this title. The registration of the warrant shall constitute and be evidence and notice of the state's lien upon any interest in any real property of the taxpayer against whom the warrant is issued, until the tax, penalty and interest accruing thereon are paid.

3. A lien pursuant to the provisions of paragraph 1 or 2 of this subsection shall be in addition to any and all other liens existing in favor of the state to secure the payment of ~~said the~~ 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 the~~ 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. The Tax Commission shall, immediately upon issuance of the warrant, mail, by regular mail, a copy of the warrant to the last-known address of the delinquent taxpayer.

C. Except as otherwise provided in subsection D of this section, the Tax Commission shall forward the filed warrant to the sheriff of the county in which the ~~warrant was filed~~ taxpayer resides. Upon receipt of the warrant, such sheriff shall thereupon proceed to execute ~~said the~~ tax warrant in the same manner prescribed by law for executions against property upon judgment of a court of record; and ~~such the~~ sheriff shall execute and deliver to the purchaser a bill of sale or deed, as the case may be.

D. The Tax Commission shall not direct or forward to the sheriff of any county any tax warrant issued pursuant to collection by the Tax Commission. The Tax Commission shall promulgate rules pertaining to tax warrants issued under this section.

E. The Tax Commission may levy upon and sell without any ~~appraisement~~ appraisal or valuation any real or personal property of any taxpayer identified by a filed tax warrant. The Tax Commission may execute ~~said the~~ 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.

F. 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 procedure for confirmation of the sale shall be the same as is now provided for the confirmation of a sale of property under execution. 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~~ the property, upon the payment of all taxes, penalties and costs accrued to the date of redemption. ~~Such applicant~~ The taxpayer shall not be entitled to a credit upon ~~such~~ the 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~~ the 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~~ redeemer. 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~~ the sheriff would be entitled to receive if ~~he were~~ executing an

execution issued by the court clerk of ~~said~~ the county upon a judgment of a court of record.

G. If any sheriff 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. 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. 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.

J. ~~After July 1, 1993, the Tax Commission shall not issue any certificates of indebtedness pursuant to the provisions of Section 230 of this title.~~

K. When a tax warrant has been issued and filed as provided in this section, 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 of the district court.

SECTION 2. 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~~ the taxes are due and payable under the provisions of the state tax laws levying such taxes. ~~Said~~ The 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~~ Section 231 of this ~~Code~~ title. ~~Said~~ The lien shall be prior, superior and paramount to all other liens, claims, or encumbrances on ~~said~~ the 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, or under~~ or the date of registration of a tax warrant as provided by Section 231 of this ~~Code~~ title, and who have filed or recorded ~~said~~ the 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.

~~(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~~ Section 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 3. AMENDATORY 68 O.S. 1991, Section 250, as amended by Section 2, Chapter 28, O.S.L. 1993 (68 O.S. Supp. 1995, Section 250), is amended to read as follows:

Section 250. All tax warrants, both state and county, shall be filed with the Oklahoma Tax Commission. The Oklahoma Tax Commission shall establish and maintain a register of tax warrants ~~filed pursuant to the provisions of the Uniform Tax Procedure Code, Sections 201 through 260 of this title. The Tax Commission shall establish and maintain a separate register of tax warrants filed pursuant to the provisions of subsection D of Section 231 of this title. Said registers~~ The register shall be a public records record which shall be open to public inspection.

SECTION 4. REPEALER 68 O.S. 1991, Section 230, as amended by Section 1, Chapter 66, O.S.L. 1992 (68 O.S. Supp. 1995, Section 230), is hereby repealed.

SECTION 5. This act shall become effective July 1, 1996.

SECTION 6. 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.

45-2-2151

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