

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1722

By: Representative M. Gray

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING TAX COLLECTION AND ENFORCEMENT WITH RESPECT TO TAXPAYERS WHO FILE FOR BANKRUPTCY; TO TOLL THE STATUTE OF LIMITATIONS FOR TAX COLLECTION IN THE EVENT OF A BANKRUPTCY FILING; TO PROVIDE THAT CERTIFICATES OF INDEBTEDNESS RELATE BACK TO THE DATE OF A TAX ASSESSMENT AND MAY BE REISSUED IN THE EVENT OF A BANKRUPTCY FILING; AND FOR OTHER PURPOSES.

Subtitle

TO TOLL THE STATUTE OF LIMITATIONS FOR TAX COLLECTION IN THE EVENT OF A BANKRUPTCY FILING; AND TO PROVIDE THAT CERTIFICATES OF INDEBTEDNESS RELATE BACK TO THE DATE OF A TAX ASSESSMENT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 26-18-306(h), concerning the time limitations for tax assessments, collection, refunds, and prosecution, is amended to read as follows:

(h)(1) ~~When~~ Except as otherwise provided in this chapter, when the assessment of any tax imposed by any state law has been made within the period of limitation properly applicable to the assessment, the tax may be collected by levy or proceeding in court, but only if the levy is made or the proceeding is begun within ten (10) years after the date of the assessment of the tax.



(2) A bankruptcy filing by a taxpayer tolls the ten-year collection period stated in subdivision (h)(1) of this section until one hundred eighty (180) days after the termination of the taxpayer's bankruptcy case.

SECTION 2. Arkansas Code § 26-18-701(a)(3)(C), concerning the issuance of certificates of indebtedness and execution under the Arkansas Tax Procedure Act, is amended to read as follows:

(C)(i)(a) The certificate of indebtedness authorized by this subsection shall continue in force for ten (10) years from the date of recording and shall automatically expire after the ten-year period has run.

~~(ii)~~(b) An action on the lien on the certificate of indebtedness shall be commenced within ten (10) years after the date of recording of the certificate, and not afterward.

~~(iii)~~(c) The director shall not be required to file a release on a lien which has expired, and the provisions of § 26-18-808 dealing with failure to release liens are not applicable to this section.

~~(iv)~~(d) The provisions of this subsection are applicable to both liens already on file and all future filings of liens.

(ii) A bankruptcy filing by a taxpayer tolls the ten-year period for certificates of indebtedness under subdivision (a)(3)(C)(i) of this section until one hundred eighty (180) days after the termination of the taxpayer's bankruptcy case.

(iii) The director may file another lien to secure a tax delinquency if:

(a) The director is required to release an inadvertently filed lien because the filing of a bankruptcy case has stayed collection activity; and

(b) There is no subsequent discharge of the tax delinquency.

SECTION 3. Arkansas Code § 26-18-701(a), concerning the issuance of certificates of indebtedness and execution under the Arkansas Tax Procedure Act, is amended to add an additional subdivision to read as follows:

(4) The lien authorized by this section arises at the time the director makes the assessment and continues until the taxpayer satisfies the

assessment or the lien becomes unenforceable by operation of law.

SECTION 4. EFFECTIVE DATE. Sections 1-3 of this act are effective for tax years beginning on or after January 1, 2020.