

TAX CODE CHAPTER 113. TAX LIENS

TAX CODE

TITLE 2. STATE TAXATION

SUBTITLE B. ENFORCEMENT AND COLLECTION

CHAPTER 113. TAX LIENS

SUBCHAPTER A. FILING AND RELEASE OF STATE TAX LIENS

Sec. 113.001. TAX LIABILITY SECURED BY LIEN. (a) All taxes, fines, interest, and penalties due by a person to the state under this title are secured by a lien on all of the person's property that is subject to execution.

(b) The lien for taxes attaches to all of the property of a person liable for the taxes.

Acts 1981, 67th Leg., p. 1518, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1985, 69th Leg., ch. 37, Sec. 2, eff. Aug. 26, 1985.

Sec. 113.002. TAX LIEN NOTICE. (a) The comptroller shall issue and file a tax lien notice required by this chapter.

(b) A tax lien notice must include the following information:

- (1) the name and address of the taxpayer;
- (2) the type of tax that is owing;
- (3) each period for which the tax is claimed to be delinquent; and
- (4) the amount of tax only due for each period, excluding the amount of any penalty, interest, or other charge.

(c) A tax lien notice may include other relevant information that the comptroller considers proper.

Acts 1981, 67th Leg., p. 1518, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 113.0021. APPLICATION TO OTHER TAXES AND FEES. This chapter also applies to a tax or fee that the comptroller is required to collect under a law not included in this title.

Added by Acts 1991, 72nd Leg., ch. 705, Sec. 8, eff. Sept. 1, 1991.

Sec. 113.003. EXECUTION OF DOCUMENTS. The comptroller may execute, certify, authenticate, or sign any instrument authorized

under this chapter to be issued by the comptroller or under the comptroller's authority with a facsimile signature and seal.

Acts 1981, 67th Leg., p. 1518, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 113.004. STATE TAX LIEN BOOK. The county clerk of each county shall provide at the expense of the county a well-bound book, entitled "State Tax Liens," in which notices of state tax liens filed by the comptroller are recorded.

Acts 1981, 67th Leg., p. 1519, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 113.005. DUTIES OF COUNTY CLERK. (a) On receipt of a tax lien notice from the comptroller, the county clerk shall immediately:

(1) record the notice in the state tax lien book;

(2) note on the notice the date and hour of its recording;

(3) enter in an alphabetical index the name of each person to whom the notice applies, along with the volume and page number of the state tax lien book where the notice is recorded;

(4) furnish to the comptroller, on a form prescribed by the comptroller, a notice showing that the tax lien notice is recorded and filed, the date and hour of its recording and filing, and the volume and page number of the state tax lien book where the lien is recorded; and

(5) send the comptroller a statement of the fee due for recording and indexing the lien.

(b) This section prevails over conflicting provisions of other law.

Acts 1981, 67th Leg., p. 1519, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 113.006. EFFECT OF FILING TAX LIEN NOTICE. (a) The filing and recording of a tax lien notice constitutes a record of the notice.

(b) One tax lien notice is sufficient to cover all taxes of any nature administered by the comptroller, including penalty and interest computed by reference to the amount of tax, that may have accrued before or after the filing of the notice.

Acts 1981, 67th Leg., p. 1519, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1997, 75th Leg., ch. 1040, Sec. 10, eff. Sept. 1,
1997; Acts 2003, 78th Leg., ch. 209, Sec. 15, eff. Oct. 1, 2003.

Sec. 113.007. EVIDENCE OF TAX PAYMENT. A payment in whole or in part of a tax secured by a state tax lien may be evidenced by a receipt, acknowledgment, or release signed by an authorized representative of the state agency that filed the lien.

Acts 1981, 67th Leg., p. 1519, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 113.008. RELEASE OF LIEN ON SPECIFIC PROPERTY.

(a) With the approval of the attorney general, the comptroller may release a state tax lien on specific real or personal property when payment of the reasonable cash market value of the property is made to the comptroller.

(b) The value of the property to be released shall be determined in the manner prescribed by the comptroller.

Acts 1981, 67th Leg., p. 1519, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 113.009. FILING OF TAX LIEN RELEASE. (a) A tax lien release shall be filed in the office of the county clerk in the manner that other releases are filed. On the filing of a release, the county clerk shall release the state tax lien filed with the clerk in accordance with the regulations of the clerk's office.

(b) The county clerk may send the comptroller a statement of the customary fee due for the filing and indexing of the release of the tax lien notice, and the comptroller may pay the fee charged. The comptroller may collect the amount of the fee paid under this subsection by the comptroller from the taxpayer against whom the lien was filed.

(c) A state tax lien filed under this chapter may not be released fully until the taxpayer pays all other taxes, penalties, interest, fees, or sums that the taxpayer owes the state and that are administered or collected by the comptroller.

Acts 1981, 67th Leg., p. 1519, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1983, 68th Leg., p. 460, ch. 94, Sec. 5, eff. May 10,
1983; Acts 2001, 77th Leg., ch. 442, Sec. 7, eff. Sept. 1, 2001.

Sec. 113.010. RELEASE OF LIEN BY ASSIGNEE. A release in whole or in part by an assignee of the state's claim for a tax and of its tax lien or of a judgment for a tax secured by a tax lien may be filed and recorded with the county clerk for the same fee and in the same manner as a release by the comptroller or by another state agency that may file a notice of a lien in the state tax lien records.

Acts 1981, 67th Leg., p. 1520, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 113.011. LIENS FILED WITH TEXAS DEPARTMENT OF TRANSPORTATION. The comptroller shall furnish to the Texas Department of Transportation each release of a tax lien filed by the comptroller with that department.

Acts 1981, 67th Leg., p. 1520, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1995, 74th Leg., ch. 165, Sec. 22(69), eff. Sept. 1, 1995.

SUBCHAPTER B. APPLICATIONS AND STATUS OF STATE TAX LIENS

Sec. 113.101. APPLICABILITY OF LIEN BEFORE FILING. (a) No lien created by this title is effective against a person listed in Subsection (b) of this section who acquires a lien, title, or other right or interest in property before the filing, recording, and indexing of the lien:

(1) on real property, in the county where the property is located; or

(2) on personal property, in the county where the taxpayer resided at the time the tax became due and payable or in the county where the taxpayer filed the report.

(b) This section applies to a bona fide purchaser, mortgagee, holder of a deed of trust, judgment creditor, or any other person who acquired the lien, title, or right or interest in the property for bona fide consideration.

Acts 1981, 67th Leg., p. 1520, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 113.102. APPLICABILITY OF LIEN TO MERCHANDISE PURCHASED. No lien created by this title is effective against a

bona fide purchaser for value of goods, wares, or merchandise daily exposed for sale in the regular course of business if the purchase and actual or constructive possession of the goods, wares, or merchandise is completed before the goods, wares, or merchandise are seized under a valid legal writ or other lawful process.

Acts 1981, 67th Leg., p. 1520, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 113.103. APPLICABILITY OF LIEN TO FINANCIAL INSTITUTIONS. (a) A bank or savings and loan institution is not required to recognize the claim of the state to a deposit or to withhold payment of a deposit to a depositor or to the depositor's order unless the bank or institution has been served by the comptroller with a notice of the state's claim.

(b) Notice of a state claim must be in writing and be served by certified mail to the bank or institution or served personally on the president or any vice-president, cashier, or assistant cashier of the bank or institution.

Acts 1981, 67th Leg., p. 1520, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 113.104. PREFERENTIAL TRANSFERS. (a) The comptroller may recover in a suit brought in Travis County by the attorney general the property or the value of property transferred in a preferential transfer.

(b) The transfer of property or an interest in property by a person who at the time of the transfer is insolvent and has received or withheld money as a tax under this title or who is delinquent in the payment of a tax imposed by this title is a preferential transfer if the transfer occurred during the six-month period before the date of the filing of a tax lien notice against the transferor as permitted by this chapter and if the transfer is made with intent to defraud the state. The transfer of the property or the interest in property without adequate and sufficient consideration creates a rebuttable presumption that the transfer was made with intent to defraud the state. A transfer with sufficient consideration creates a rebuttable presumption that the transfer was not made with intent to defraud the state.

(c) All property subject to execution of a transferee in a

preferential transfer is subject to a prior lien in favor of the state to secure the recovery of the value of the property transferred in a preferential transfer.

(d) The remedies provided by this section are cumulative of other remedies of the comptroller as a creditor.

Acts 1981, 67th Leg., p. 1520, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 113.105. TAX LIEN; PERIOD OF VALIDITY. (a) The state tax lien on personal property and real estate continues until the taxes secured by the lien are paid.

(b) The state tax lien on personal property and real estate attaches to personal property and real estate owned by the taxpayer beginning on the first day of the period for which the lien is filed by the state.

Acts 1981, 67th Leg., p. 1521, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1985, 69th Leg., ch. 37, Sec. 1, eff. Aug. 26, 1985;

Acts 1987, 70th Leg., 2nd C.S., ch. 1, Sec. 9, eff. July 21, 1987;

Acts 2001, 77th Leg., ch. 442, Sec. 8, eff. Sept. 1, 2001.

Sec. 113.106. LIEN; SUIT TO DETERMINE VALIDITY. (a) In an action to determine the validity of a state tax lien, the lien shall be:

(1) perpetuated and foreclosed; or

(2) nullified.

(b) If a lien is perpetuated and foreclosed, no further action or notice on the judgment is required, and the notice of the state tax lien on record continues in effect.

(c) If all or part of a lien is nullified, a certified copy of the judgment may be filed with the county clerk of the county where the tax lien notice was filed and may be recorded in the same manner as a release by the comptroller.

(d) Execution, order for sale, or other process for the enforcement of the lien may be issued on the judgment at any time.

(e) A person must bring suit to determine the validity of a state tax lien not later than the 10th anniversary of the date the lien was filed. If more than one state tax lien has been filed relating to the same tax liability, the 10-year limitation period

provided by this subsection is calculated from the date of the filing of the first lien relating to the liability.

(f) A taxpayer is presumed to have received proper notice of the taxpayer's tax liability if the notice is delivered to the taxpayer's last address of record with the comptroller. The taxpayer may rebut the presumption by presenting substantive evidence that demonstrates that notice of the tax liability was not received. If the taxpayer rebuts the presumption of receipt of proper notice with evidence the comptroller considers satisfactory, the period of limitations for filing suit provided by Subsection (e) does not apply.

Acts 1981, 67th Leg., p. 1521, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 931, Sec. 7, eff. June 15, 2007.

Sec. 113.107. ASSIGNMENT OF JUDGMENT ON LIEN. (a) A judgment perpetuating and foreclosing a tax lien may be transferred and assigned for the amount of the taxes covered in the judgment and may be reassigned by a subsequent holder.

(b) An assignment shall be filed and recorded and shall be released in the same manner as are liens before judgment.

(c) If notice of the assignment is given as provided by Subchapter E of Chapter 111 of this code, the assignee is fully subrogated to and succeeds to all rights, liens, and remedies of the state.

Acts 1981, 67th Leg., p. 1521, ch. 389, Sec. 1, eff. Jan. 1, 1982.