

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

SENATE BILL

494

By: Senator Dowd

For An Act To Be Entitled

"AN ACT TO BE KNOWN AS THE UNIFORM FEDERAL LIEN REGISTRATION
ACT."

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

SECTION 1. Scope. This act applies only to federal tax liens and to other federal liens notices of which under any Act of Congress or any regulation adopted pursuant thereto are required or permitted to be filed in the same manner as notices of federal tax liens.

SECTION 2. Place of Filing.

(a) Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens must be filed in accordance with this act.

(b) Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens shall be filed in the office of the circuit clerk of the county in which the real property subject to the liens is situated.

(c) Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens shall be filed as follows:

(1) if the person against whose interest the lien applies is a corporation or a partnership whose principal executive office is in this state, as these entities are defined in the internal revenue laws of the United States, in the office of the Secretary of State;

(2) if the person against whose interest the lien applies is a trust that is not covered by paragraph (1), in the office of the Secretary of State;

(3) if the person against whose interest the lien applies is the estate of a decedent, in the office of the Secretary of State;

(4) in all other cases, in the office of the circuit clerk of the county where the person against whose interest the lien applies resides at the time of filing of the notice of lien.

SECTION 3. Execution of Notices and Certificates. Certification of notices of liens, certificates, or other notices affecting federal liens by the Secretary of the Treasury of the United States or his delegate, or by any official or entity of the United States responsible for filing or certifying of notice of any other lien, entitles them to be filed and no other attestation, certification, or acknowledgement is necessary.

SECTION 4. Duties of Filing Officer.

(a) If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in subsection (b) is presented to a filing officer who is:

(1) the Secretary of State, he shall cause the notice to be marked, held, and indexed in accordance with the provisions of Arkansas Code 4-9-403(4) of the Uniform Commercial Code as if the notice were a financing statement within the meaning of that Code; or

(2) any other officer described in Section 2, he shall endorse thereon his identification and the date and time of receipt and forthwith file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, the title and address of the official or entity certifying the lien, and the total amount appearing on the notice of lien.

(b) If a certificate of release, non-attachment, discharge, or subordination of any lien is presented to the Secretary of State for filing he shall:

(1) cause a certificate of release or non-attachment to be marked, held, and indexed as if the certificate were a termination statement within the meaning of the Uniform Commercial Code, but the notice of lien to which the certificate relates may not be removed from the files; and

(2) cause a certificate of discharge or subordination to be marked, held, and indexed as if the certificate were a release of collateral within the meaning of the Uniform Commercial Code.

(c) If a refiled notice of federal lien referred to in subsection (a) or

any of the certificates or notices referred to in subsection (b) is presented for filing to any other filing officer specified in Section 2, he shall permanently attach the refiled notice or the certificate to the original notice of lien and enter the refiled notice or the certificate with the date of filing in any alphabetical lien index on the line where the original notice of lien is entered.

(d) Upon request of any person, the filing officer shall issue his certificate showing whether there is on file, on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien filed under this act [or (reference previous federal tax lien registration act)], naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. The fee for a certificate is \$3.00. Upon request, the filing officer shall furnish a copy of any notice of federal lien, or notice or certificate affecting a federal lien, for a fee of \$.50 per page.

SECTION 5. Fees. The fee for filing and indexing each notice of lien or certificate or notice affecting the lien is:

- (1) for a lien on real estate, \$3,00 for first page and \$1.00 for each additional page;
- (2) for a lien on tangible and intangible personal property, \$3,00;
- (3) for a certificate of discharge or subordination, \$3.00 for first page, and \$1.00 for each additional page;
- (4) for all other notices, including a certificate of release or non-attachment, \$3.00 for first page and \$1.00 for each additional page.

The officer shall bill the district directors of internal revenue or other appropriate federal officials on a monthly basis for fees for documents filed by them.

SECTION 6. Uniformity of Application and Construction. This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

SECTION 7. Short Title. This act may be cited as the Uniform Federal Lien Registration Act.

SECTION 8. Arkansas Code 18-47-201 through 18-47-208 is hereby repealed.

SECTION 9. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 10. Emergency. It is hereby found and determined by the General Assembly that the existing law regarding the filing of federal liens is inadequate and out of date and there is a need to make the law of all of the states uniform. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall be in effect from the date of its passage and approval."