

SHORT TITLE: Public finance; duties of court clerk and judgment creditor for cases of judgments against municipalities; conditions for certain civil actions to be brought; effective date.

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)
SENATE BILL NO. 1048 By: Smith

AS INTRODUCED

An Act relating to public finance; amending 62 O.S. 1991, Sections 365.2, 365.3 and 365.5, which relate to judgments against municipalities; modifying duties of court clerk; requiring judgment creditor or attorney therefor to make certain transmission; clarifying statutory reference; modifying procedure for notation of certain decree; requiring judgment creditor or attorney therefor to file certain claim with municipal treasurer; requiring municipal treasurer to supply certain information; specifying conditions under which certain civil actions may be brought; providing for codification; repealing 62 O.S. 1991, Section 362, which relates to judgments against municipalities; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 62 O.S. 1991, Section 365.2, is amended to read as follows:

Section 365.2 Whenever a judgment against a county in this state or any other municipal subdivision thereof, becomes final, the clerk of the court wherein such judgment was rendered, shall ~~transmit~~ provide without cost a certified copy of the journal entry of such judgment to the judgment creditor or attorney for the judgment creditor who shall transmit same to each of the following municipal officers:

The clerk or secretary of the municipality defendant,

The treasurer of such municipality,

The secretary of the county excise board.

SECTION 2. AMENDATORY 62 O.S. 1991, Section 365.3, is amended to read as follows:

Section 365.3 Each of the three municipal officers ~~named in Section 2 hereof~~ specified in Section 365.2 of this title shall maintain, on forms prescribed by the State Auditor and Inspector,

a record of such judgments and of levies made therefor and of payments made thereon. The record of the secretary of the county excise board shall be made to show, as to each such judgment, also the case number and date of final decree of either the Oklahoma Court of Tax Review or of the Oklahoma Supreme Court invalidating any levy or part of levy attempted to be made therefor, and it shall be his duty to notify the court clerk, forthwith, of such decree, who shall make note of the same on ~~his judgment roll~~ the docket sheet for the case in which the judgment was entered.

SECTION 3. AMENDATORY 62 O.S. 1991, Section 365.5, is amended to read as follows:

Section 365.5 Money judgments against any county or other municipal subdivisions of the State of Oklahoma shall be paid in the following manner, and may be paid in no other manner. No payment shall be made until such judgment is first spread on the budget for levy as to the first third thereof, and the levy or provision made therefor has become final. Within thirty (30) days after the final determination of any ad valorem tax protests as involve levy for judgments against the county or any of its municipal subdivisions, or, if no protests be filed, then after termination of the forty-day protest period, ~~the clerk of the court out of which such judgment or judgments issued,~~ judgment creditor or attorney for the judgment creditor shall file with the treasurer of such municipality a claim, in form as prescribed by the State Auditor and Inspector, itemizing the judgments to be paid, stating the principal sum thereof, any sums paid thereon, and the balance due with interest computed on the unpaid portion of the principal amount of each judgment. The information required by the claim form shall be supplied by the treasurer of the municipality or of the county, as the case may be. Such treasurer shall thereupon canvass his sinking fund for the purpose of ascertaining if there be in his sinking fund for such municipality an amount of actual cash over and above the amount of cash needed to pay all coupons and bonds matured and maturing therein within the time such sinking fund will be replenished from levies made or to be made for such judgment, or judgments, he

shall approve such claim in such amount as is neither in excess of such claim nor in excess of the actual cash reserve necessary for coupons and bonds as hereinbefore defined and shall transmit it to the clerk of such municipality. For all purposes of this act, the county clerk shall act for the county and all townships and dependent school districts therein. Upon receipt of such claim, the clerk shall audit the same against his own records and, if found correct he shall approve the same and return it to such treasurer, who shall pay the amount thereof out of such sinking fund, to the clerk of the court out of which such judgments issued. Upon receipt thereof such court clerk shall issue his official receipt and deposit said funds in his official depository account, and at the same time enter a credit in each case involved in accordance with the claim previously made or in ratio thereto; and thereafter, upon demand by the judgment creditor or his assignee of record, he shall make payment by his own official voucher in the same manner as in other cases and credit the judgment roll of such judgment with the amount of payment so made. No poundage or other fee shall be charged or collected by the court clerk for monies received or paid under the provisions of this act. If such claim can be only partly paid, under this section, other claims shall be filed from time to time thereafter, audited and paid in the same manner. No payment by the court clerk shall be authorized to be made to the assignee of any judgment unless such assignment, duly acknowledged, be first entered of record in such case and on such judgment roll.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 374 of Title 62, unless there is created a duplication in numbering, reads as follows:

Civil actions filed by taxpayers for the recovery of real or personal property can only be brought if the written demand upon the proper officers is made by the required resident taxpayers within two (2) years of the transfer of the property, and the civil suit is filed within six (6) months following the refusal, failure, or neglect of the proper officers to act upon the written demand.

SECTION 5. REPEALER 62 O.S. 1991, Section 362, is hereby repealed.

SECTION 6. This act shall become effective September 1, 1994.

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