

SHORT TITLE: Tax liens; exempting certain property sales from certain encumbrances; effective date.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 1296

By: Hendrick

AS INTRODUCED

An Act relating to tax liens; amending 11 O.S. 1991, Sections 22-111, as amended by Section 1, Chapter 206, O.S.L. 1994, 22-112 and 22-112.1 (11 O.S. Supp. 1995, Section 22-111), which relate to general powers of municipalities; exempting certain property sales from certain encumbrances; amending 68 O.S. 1991, Section 3106, 3118, 3127 and 3142, which relate to tax liens; modifying certain notice requirements; clarifying language; qualifying grounds for invalidation of tax sale; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 22-111, as amended by Section 1, Chapter 206, O.S.L. 1994 (11 O.S. Supp. 1995, Section 22-111), is amended to read as follows:

Section 22-111. A. A municipal governing body may cause property within the municipal limits to be cleaned of trash and weeds or grass to be cut or mowed in accordance with the following procedure:

1. At least ten (10) days' notice shall be given to the owner of the property by mail at the address shown by the current year's tax rolls in the county treasurer's office before the governing body holds a hearing or takes action. The notice shall order the property owner to clean the property of trash, or to cut or mow the weeds or grass on the property, as appropriate, and said notice shall further state that unless such work is performed within ten (10) days of the date of the notice the work shall be done by the municipality and a notice of lien shall be filed with the county

clerk against the property for the costs due and owing the municipality. At the time of mailing of notice to the property owner, the municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. However, if the property owner cannot be located within ten (10) days from the date of mailing by the municipal governing body, notice may be given by posting a copy of the notice on the property or by publication, as defined in Section 1-102 of this title, one time not less than ten (10) days prior to any hearing or action by the municipality. If a municipal governing body anticipates summary abatement of a nuisance in accordance with the provisions of subsection B of this section, the notice, whether by certified mail, posting or publication, shall state: that any accumulations of trash or excessive weed or grass growth on the owner's property occurring within six (6) months from and after the date of this notice may be summarily abated by the municipal governing body; that the costs of such abatement shall be assessed against the owner; and that a lien may be imposed on the property to secure such payment, all without further prior notice to the property owner;

2. The owner of the property may give his written consent to the municipality authorizing the removal of the trash or the mowing of the weeds or grass. By giving said written consent, the owner waives his right to a hearing by the municipality;

3. A hearing may be held by the municipal governing body to determine whether the accumulation of trash or the growth of weeds or grass has caused the property to become detrimental to the health, benefit, and welfare of the public and the community or a hazard to traffic, or creates a fire hazard to the danger of property;

4. Upon a finding that the condition of the property constitutes a detriment or hazard, and that the property would be benefited by the removal of such conditions, the agents of the municipality are granted the right of entry on the property for the removal of trash, mowing of weeds or grass, and performance of the necessary duties as a governmental function of the municipality. Immediately following the cleaning or mowing of the property, the municipal clerk shall file a notice of lien with the county clerk describing the property and the work performed by the municipality, and stating that the municipality claims a lien on said property for the cleaning or mowing costs;

5. The governing body shall determine the actual cost of such cleaning and mowing and any other expenses as may be necessary in connection therewith, including the cost of notice and mailing. The municipal clerk shall forward by mail to the property owner specified in paragraph 1 of this subsection a statement of such actual cost and demanding payment. If the cleaning and mowing are done by the municipality, the cost to the property owner for said cleaning and mowing shall not exceed the actual cost of the labor, maintenance, and equipment required. If the cleaning and mowing are done on a private contract basis, the contract shall be awarded to the lowest and best bidder;

6. If payment is not made within thirty (30) days from the date of the mailing of the statement, the municipal clerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located and the same shall be levied on the property and collected by the county treasurer as other taxes authorized by law. Until fully paid, the cost and the interest thereon shall be the personal obligation of the property owner from and after the date the cost is certified to

the county treasurer. In addition the cost and the interest thereon shall be a lien against the property from the date the cost is certified to the county treasurer, coequal with the lien of ad valorem taxes and all other taxes and special assessments and prior and superior to all other titles and liens against the property, and the lien shall continue until the cost shall be fully paid, except that any sale conducted by the county to collect ad valorem or any other taxes or special assessments shall be free and clear of any such existing assessment or lien of the municipality, regardless of whether or not the municipal assessment or lien has been certified or otherwise transmitted to the county. At the time of collection, the county treasurer shall collect a fee of Five Dollars (\$5.00) for each parcel of property. Said fee shall be deposited to the credit of the general fund of the county. At any time prior to the collection as provided in this paragraph, the municipality may pursue any civil remedy for collection of the amount owing and interest thereon including an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, if any, the municipal clerk shall forward to the county treasurer a notice of such payment and directing discharge of the lien; and

7. The municipality may designate by ordinance an administrative officer or administrative body to carry out the duties of the governing body in subsection A of this section. The property owner shall have a right of appeal to the municipal governing body from any order of the administrative officer or administrative body. Such appeal shall be taken by filing written

notice of appeal with the municipal clerk within ten (10) days after the administrative order is rendered.

B. If a notice is given by a municipal governing body to a property owner ordering the property within the municipal limits to be cleaned of trash and weeds or grass to be cut or mowed in accordance with the procedures provided for in subsection A of this section, any subsequent accumulations of trash or excessive weed or grass growth on the property occurring within a six-month period may be declared to be a nuisance and may be summarily abated without further prior notice to the property owner. At the time of each such summary abatement the municipality shall notify the property owner of the abatement and the costs thereof. The notice shall state that the property owner may request a hearing within ten (10) days after the date of mailing the notice. The notice and hearing shall be as provided for in subsection A of this section. Unless otherwise determined at the hearing the cost of such abatement shall be determined and collected as provided for in paragraphs 5 and 6 of subsection A of this section. Provided, however, that this subsection shall not apply if the records of the county clerk show that the property was transferred after notice was given pursuant to subsection A of this section.

C. The municipal governing body may enact ordinances to prohibit owners of property or persons otherwise in possession or control located within the municipal limits from allowing trash to accumulate, or weeds to grow or stand upon the premises and may impose penalties for violation of said ordinances.

D. As used in this section:

1. "Weed" includes but is not limited to poison ivy, poison oak, or poison sumac and all vegetation at any state of maturity which:

- a. exceeds twelve (12) inches in height, except healthy trees, shrubs, or produce for human consumption grown in a tended and cultivated garden unless such trees and shrubbery by their density or location constitute a detriment to the health, benefit and welfare of the public and community or a hazard to traffic or create a fire hazard to the property or otherwise interfere with the mowing of said weeds;
- b. regardless of height, harbors, conceals, or invites deposits or accumulation of refuse or trash;
- c. harbors rodents or vermin;
- d. gives off unpleasant or noxious odors;
- e. constitutes a fire or traffic hazard; or
- f. is dead or diseased.

The term "weed" shall not include tended crops on land zoned for agricultural use which are planted more than one hundred fifty (150) feet from a parcel zoned for other than agricultural use.

2. "Trash" means any refuse, litter, ashes, leaves, debris, paper, combustible materials, rubbish, offal, or waste, or matter of any kind or form which is uncared for, discarded, or abandoned.

3. "Owner" means the owner of record as shown by the most current tax rolls of the county treasurer.

4. "Cleaning" means the removal of trash from property.

E. The provisions of this section shall not apply to any property zoned and used for agricultural purposes.

SECTION 2. AMENDATORY 11 O.S. 1991, Section 22-112, is amended to read as follows:

Section 22-112. A municipal governing body may cause dilapidated buildings within the municipal limits to be torn down and removed in accordance with the provisions of this section.

1. At least ten (10) days' notice that a building is to be torn down or removed shall be given to the owner of the property before the governing body holds a hearing. A copy of the notice shall be posted on the property to be affected. In addition, a copy of said notice shall be sent by mail to the property owner at the address shown by the current year's tax rolls in the office of the county treasurer. Written notice shall also be mailed to any mortgage holder as shown by the records in the office of the county clerk to the last-known address of the mortgagee. At the time of mailing of notice to any property owner or mortgage holder, the municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. However, if neither the property owner nor mortgage holder can be located, notice may be given by posting a copy of the notice on the property, or by publication as defined in Section 1-102 of this title. Such notice may be published once not less than ten (10) days prior to any hearing or action by the municipality pursuant to the provisions of this section.

2. A hearing shall be held by the governing body to determine if the property is dilapidated and has become detrimental to the health, safety, or welfare of the general public and the community, or if said property creates a fire hazard which is dangerous to other property.

3. Pursuant to a finding that the condition of the property constitutes a detriment or a hazard and that the property would be benefited by the removal of such conditions, the governing body may cause the dilapidated building to be torn down and removed. The governing body shall fix reasonable dates for the commencement and completion of the work. The municipal clerk shall immediately file a notice of dilapidation and lien with the county clerk describing

the property, the findings of the municipality at the hearing, and stating that the municipality claims a lien on said property for the destruction and removal costs and that such costs are the personal obligation of the property owner from and after the date of filing of said notice. The agents of the municipality are granted the right of entry on the property for the performance of the necessary duties as a governmental function of the municipality if the work is not performed by the property owner within dates fixed by the governing body.

4. The governing body shall determine the actual cost of the dismantling and removal of dilapidated buildings and any other expenses that may be necessary in conjunction with the dismantling and removal of the buildings, including the cost of notice and mailing. The municipal clerk shall forward a statement of the actual cost attributable to the dismantling and removal of the buildings and a demand for payment of such costs, by mail to the property owner. In addition, a copy of said statement shall be mailed to any mortgage holder at the address provided for in paragraph 1 of this section. At the time of mailing of the statement of costs to any property owner or mortgage holder, the municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. If a municipality dismantles or removes any dilapidated buildings, the cost to the property owner shall not exceed the actual cost of the labor, maintenance, and equipment required for the dismantling and removal of the dilapidated buildings. If dismantling and removal of the dilapidated buildings is done on a private contract basis, the contract shall be awarded to the lowest and best bidder.

5. When payment is made to the municipality for costs incurred, the municipal clerk shall file a release of lien, but if payment attributable to the actual cost of the dismantling and removal of the buildings is not made within six (6) months from the date of the mailing of the statement to the owner of such property, the municipal clerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located. Said costs shall be levied on the property and collected by the county treasurer as are other taxes authorized by law. Until finally paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date of the notice of dilapidation and lien is filed with the county clerk. In addition the cost and the interest thereon shall be a lien against the property from the date the notice of the lien is filed with the county clerk. Said lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the cost is fully paid, except that any sale conducted by the county to collect ad valorem or any other taxes or special assessments shall be free and clear of any such existing assessment or lien of the municipality, regardless of whether or not the municipal assessment or lien has been certified or otherwise transmitted to the county. At the time of collection, the county treasurer shall collect a fee of Five Dollars (\$5.00) for each parcel of property. Said fee shall be deposited to the credit of the general fund of the county. At any time prior to collection as provided for in this paragraph, the municipality may pursue any civil remedy for collection of the amount owing and interest thereon including an action in personam against the property owner and an action in rem to foreclose its

lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, the municipal clerk shall forward to the county treasurer a notice of such payment and shall direct discharge of the lien.

6. The municipality may designate, by ordinance, an administrative officer or administrative body to carry out the duties of the governing body specified in this section. The property owner shall have the right of appeal to the municipal governing body from any order of the administrative officer or administrative body. Such appeal shall be taken by filing written notice of appeal with the municipal clerk within ten (10) days after the administrative order is rendered.

7. For the purposes of this section, "dilapidated building" means a structure which through neglect or injury lacks necessary repairs or otherwise is in a state of decay or partial ruin to such an extent that said structure is a hazard to the health, safety, or welfare of the general public. "Owner" means the owner of record as shown by the most current tax rolls of the county treasurer.

8. Nothing in the provisions of this section shall prevent the municipality from abating a dilapidated building as a nuisance or otherwise exercising its police power to protect the health, safety, or welfare of the general public.

9. The officers, employees or agents of the municipality shall not be liable for any damages or loss of property due to the removal of dilapidated buildings performed pursuant to the provisions of this section or as otherwise prescribed by law.

10. The provisions of this act shall not apply to any property zoned and used for agricultural purposes.

SECTION 3. AMENDATORY 11 O.S. 1991, Section 22-112.1, is amended to read as follows:

Section 22-112.1 A. After a building has been declared dilapidated, as provided in Section 22-112 of this title, and before the commencement of the tearing and removal of a dilapidated building, the governing body of any municipality may authorize that such a building be boarded and secured.

B. A governing body of any municipality may cause the premises on which an unsecured building is located to be cleaned of trash and weeds in accordance with the provisions of Section 22-111 of this title.

C. A governing body of any municipality may cause an unsecured building to be boarded and secured in accordance with the following procedures:

1. Before the governing body orders such action, at least ten (10) days' notice that such unsecured building is to be boarded and secured shall be given by mail to any property owners and mortgage holders as provided in Section 22-112 of this title. At the time of mailing of notice to any property owner or mortgage holder, the municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. A copy of the notice shall also be posted on the property to be affected. However, if neither the property owner nor mortgage holder can be located, notice may be given by posting a copy of the notice on the property or by publication as defined in Section 1-102 of this title. Such notice shall be published one time, not less than ten (10) days prior to any hearing or action by the municipality pursuant to the provisions of this section. If a municipal governing body anticipates summary abatement of a nuisance in accordance with the provisions of

paragraph 9 of subsection C of this section, the notice shall state: that any subsequent need for boarding and securing the building within a six-month period after the initial boarding and securing of the building pursuant to such notice may be summarily boarded and secured by the municipal governing body; that the costs of such boarding and securing shall be assessed against the owner; and that a lien may be imposed on the property to secure such payment, all without further prior notice to the property owner or mortgage holder;

2. The owner of the property may give his written consent to the municipality authorizing the boarding and securing of such unsecured building and to the payment of any costs incurred thereby. By giving said written consent, the owner waives his right to a hearing by the municipal governing body;

3. If the property owner does not give his written consent to such actions, a hearing may be held by the municipal governing body to determine whether the boarding and securing of such unsecured building would promote and benefit the public health, safety or welfare. Such hearing may be held in conjunction with a hearing on the accumulation of trash or the growth of weeds or grass on the premises of such unsecured building held pursuant to the provisions of paragraph 3 of subsection A of Section 22-111 of this title. In making such determination, the governing body shall apply the following standard: the governing body may order the boarding and securing of the unsecured building when the boarding and securing thereof would make such building less available for transient occupation, decrease a fire hazard created by such building, or decrease the hazard that such building would constitute an attractive nuisance to children.

Upon making the required determination, the municipal governing body may order the boarding and securing of the unsecured building;

4. After the governing body orders the boarding and securing of such unsecured building, the municipal clerk shall immediately file a notice of unsecured building and lien with the county clerk describing the property, stating the findings of the municipality at the hearing at which such building was determined to be unsecured, and stating that the municipality claims a lien on said property for the costs of boarding and securing such building and that such costs are the personal obligation of the property owner from and after the date of filing said notice;

5. Pursuant to the order of the governing body, the agents of the municipality are granted the right of entry on the property for the performance of the boarding and securing of such building and for the performance of all necessary duties as a governmental function of the municipality;

6. After an unsecured building has been boarded and secured, the governing body shall determine the actual costs of such actions and any other expenses that may be necessary in conjunction therewith including the cost of the notice and mailing. The municipal clerk shall forward a statement of the actual costs attributable to the boarding and securing of the unsecured building and a demand for payment of such costs, by mail to any property owners and mortgage holders as provided in Section 22-112 of this title. At the time of mailing of the statement of costs to any property owner or mortgage holder, the municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee.

If a municipality boards and secures any unsecured building, the cost to the property owner shall not exceed the actual cost of the

labor, materials and equipment required for the performance of such actions. If such actions are done on a private contract basis, the contract shall be awarded to the lowest and best bidder;

7. When payment is made to the municipality for costs incurred, the municipal clerk shall file a release of lien, but if payment attributable to the actual costs of the boarding and securing of the unsecured building is not made within thirty (30) days from the date of the mailing of the statement to the owner of such property, the municipal clerk shall forward a certified statement of the amount of the costs to the county treasurer of the county in which the property is located. Said costs shall be levied on the property and collected by the county treasurer as are other taxes authorized by law. Until fully paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date the notice of unsecured building and lien is filed with the county clerk. In addition the costs and the interest thereon shall be a lien against the property from the date the notice of the lien is filed with the county clerk. Said lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the costs and interest are fully paid, except that any sale conducted by the county to collect ad valorem or any other taxes or special assessments shall be free and clear of any such existing assessment or lien of the municipality, regardless of whether or not the municipal assessment or lien has been certified or otherwise transmitted to the county. At any time prior to collection as provided for in this paragraph, the municipality may pursue any civil remedy for collection of the amount owing and interest thereon including an action in personam against the property owner and an

action in rem to foreclose its lien against the property. A mineral interest if severed from the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, the municipal clerk shall forward to the county treasurer a notice of such payment and shall direct discharge of the lien;

8. The municipality may designate by ordinance an administrative officer or administrative body to carry out the duties of the governing body specified in subsection C of this section. The property owner or mortgage holder shall have a right of appeal to the municipal governing body from any order of the administrative officer or administrative body. Such appeal shall be taken by filing written notice of appeal with the municipal clerk within ten (10) days after the administrative order is rendered;

9. If a municipal governing body causes a structure within the municipal limits to be boarded and secured, any subsequent need for boarding and securing within a six-month period constitutes a public nuisance and may be summarily boarded and secured without further prior notice to the property owner or mortgage holder. At the time of each such summary boarding and securing, the municipality shall notify the property owner and mortgage holder of the boarding and securing and the costs thereof. The notice shall state that the property owner may request an appeal with the municipal clerk within ten (10) days after the mailing of the notice. The notice and hearing shall be as provided for in paragraph 1 of subsection C of this section. Unless otherwise determined at the hearing the cost of such boarding and securing shall be determined and collected as provided for in paragraphs 6 and 7 of this subsection;

10. A governing body of any municipality may determine that a building is unsecured and order that such building be boarded and

secured in the manner provided for in this subsection even though such building has not been declared, by the governing body, to be dilapidated; and

11. For the purposes of this subsection:

- a. "boarding and securing" or "boarded and secured" means the closing, boarding or locking of any or all exterior openings so as to prevent entry into the structure, and
- b. "unsecured building" shall mean any structure which is not occupied by a legal or equitable owner thereof, or by a lessee of a legal or equitable owner, and into which there are one or more unsecured openings such as broken windows, unlocked windows, broken doors, unlocked doors, holes in exterior walls, holes in the roof, broken basement or cellar hatchways, unlocked basement or cellar hatchways or other similar unsecured openings which would facilitate an unauthorized entry into the structure.

D. The provisions of this section shall not apply to any property zoned and used for agricultural purposes.

SECTION 4. AMENDATORY 68 O.S. 1991, Section 3106, is amended to read as follows:

Section 3106. The county treasurer shall give notice of the sale of real property for delinquent taxes and special assessments by publication of said sale once a week for the two (2) consecutive weeks immediately prior to the third Friday in September preceding the sale, in some newspaper in the county to be designated by the county treasurer. Such notice shall contain a notification that all lands on which the taxes are delinquent and remain due and unpaid will be sold, the time and place of the sale, a list of the lands to

be sold, the name or names of the last owner or owners as reflected by the records in the office of the county treasurer, and the amount of taxes due and delinquent. Such notice shall also contain the following language: "The sale hereby advertised is conditional and subject to a two-year right of redemption by the record owner as provided in Section ~~24323~~ 3118 of Title 68 of the Oklahoma Statutes." If the sale involves property upon which is located a manufactured home the notice shall also contain the following language: "The sale hereby advertised involves a manufactured home which may be subject to the right of a secured party to repossess. A holder of a perfected security interest in such manufactured home may be able to pay ad valorem taxes based upon the value of the manufactured home apart from the value of real property. If a secured party exercises this right, the holder of the tax sale certificate will be refunded the amount of taxes paid upon the value of the manufactured home." In addition to said published notice, the county treasurer shall give notice simultaneously by certified mail and by first-class U.S. mail by mailing to the owner of said real property, as shown by the last tax rolls in his office and to all lienholders of record, at the address shown on the encumbrance, including, but not limited to, all holders of mortgage liens, judgment liens, or tax liens of record, a notice of said sale stating the time and place of said sale and showing the legal description of the property of the owner being sold. Failure to receive said notice shall not invalidate said sale as to any owner or lienholder to whom notice was sent. The county treasurer shall charge and collect, in addition to the taxes, interest and penalty, the publication fees as provided by the provisions of Section 121 of Title 28 of the Oklahoma Statutes, and Five Dollars (\$5.00) plus postage for mailing the notice by certified mail, which shall be

paid into the county treasury, and the county shall pay the cost of the publication of such notice. But in no case shall the county be liable for more than the amount charged to the delinquent lands for advertising and the cost of mailing.

SECTION 5. AMENDATORY 68 O.S. 1991, Section 3118, is amended to read as follows:

Section 3118. ~~(a)~~ A. If no person shall redeem such lands within two (2) years, at any time after the expiration thereof, and on production of the certificate of purchase, the county treasurer of the county in which the sale of such land took place shall execute to the purchaser, his heirs or assigns, a deed for land remaining unredeemed. The deed shall vest in the grantee an absolute estate in fee simple in said lands, ~~subject however, to~~ free and clear of any and all claims which the state may have on said lands for taxes or other liens or encumbrances and shall extinguish the rights of any ~~mortgagee~~ lienholder of record of said lands to whom notice was sent as provided for by law. However, before any holder of a certificate of purchase issued at any tax sale of real estate shall be entitled to a deed as provided in this section, he shall cause a written notice signed by himself to be served upon the owner of the land if said owner is within the state, upon the person in possession of the said land (if the same be occupied), and upon all ~~mortgagees~~ lienholders of record of the said land, which notice shall recite the sale of the said lands, specifying the date of such sale and notifying such person that unless redemption is made from such sale within sixty (60) days after the date of the service of such notice, a tax deed will be demanded and will issue as provided by law.

~~(b)~~ B. If it shall be made to appear by the return of the service of such notice that the owner or any ~~mortgagee~~ lienholder of

record of such land cannot be found in the county in which such land is situated, such holder of a certificate of purchase shall cause such notice to be mailed to the last-known address of the owner and any ~~mortgagee~~ lienholder of record of such land, with return receipt requested. If it shall be made to further appear by the affidavit of the holder of the tax certificate or his agent, filed in the office of the county clerk, that the owner or any ~~mortgagee~~ lienholder of record of the real estate are nonresidents of the state, or that the residence or place of business of such owner or any ~~mortgagee~~ lienholder of record is not known to the holder of such tax certificate, and cannot be ascertained by any means within the control of such holder of the tax certificate, and that the holder of such tax certificate cannot by the exercise of reasonable diligence make service upon such owner or any ~~mortgagee~~ lienholder of record within the state, then in such cases, service shall be made by publication for three (3) successive weeks in some newspaper of general circulation published at the county seat of the county in which such real estate is situated, and said sixty (60) days shall begin to run from the date of the first publication of such notice. Until the expiration of the said sixty (60) days, redemption may be made by any person authorized by law to redeem. All service and return shall be made in the same manner as that of summons in courts of record. The notice, with the tax sale certificate, after being duly served or published, or both, shall be returned and filed in the office of the county clerk, who shall make notation of its date and the date of service on the delinquent sale record, and the fee for such service and publication shall be the same as for like service of summons, and shall be added to the amount necessary to redeem such sales. The notice provided for in this section may be served at any time after a date not exceeding sixty (60) days prior

to the expiration of two (2) years subsequent to the day of sale. Neither failure to send notice to any ~~mortgagee~~ lienholder of record of said land nor failure of a lienholder to receive notice as provided for by this section shall invalidate the certificate tax sale as to any owner or lienholder to whom notice was sent, but the certificate tax sale deed shall be ineffective to extinguish any ~~mortgage~~ lien on said lands of a ~~mortgagee~~ lienholder to whom no notice was sent.

SECTION 6. AMENDATORY 68 O.S. 1991, Section 3127, is amended to read as follows:

Section 3127. The county treasurer shall give notice of the resale of such real estate by publication of said notice once a week for four (4) consecutive weeks preceding such sale, in some newspaper, having been continuously published one hundred four (104) consecutive weeks with admission to the United States mails as second-class mail matter, with paid circulation and published in the county where delivered to the mails, to be designated by the county treasurer; and if there be no paper published in the county, or publication is refused, he shall give notice by written or printed notice posted on the door of the courthouse. Such notice shall contain a description of the real estate to be sold, the name of the owner of said real estate as shown by the last tax rolls in the office of the county treasurer, the time and place of sale, a statement of the date on which said real estate was sold to the county for delinquent taxes, the year or years for which taxes have been assessed but remain unpaid and a statement that the same has not been redeemed for the period of two (2) years from the date of sale, the total amount of all delinquent taxes, costs, penalties and interest accrued, due and unpaid on the same, and a statement that such real estate will be sold to the highest bidder for cash. It

shall not be necessary to set forth the amount of taxes, penalties, interest and costs accrued each year separately, but it shall be sufficient to publish the total amount of all due and unpaid taxes, penalties, interest and costs. The county treasurer shall, at least thirty (30) days prior to such resale of real estate, give notice simultaneously by certified mail and first-class U.S. mail, by mailing to the owner of said real estate, as shown by the last tax rolls in his office, ~~and to all mortgagees of record~~ and to all lienholders of record, at the address shown on the encumbrance, including, but not limited to, all holders of mortgage liens, judgment liens, or tax liens, of record, of said real estate a notice stating the time and place of said resale and showing the legal description of the real property to be sold. If the county treasurer does not know and cannot, by the exercise of reasonable diligence, ascertain the address of any ~~mortgagee~~ lienholder of record, then the county treasurer shall cause an affidavit to be filed with the county clerk, on a form approved by the State Auditor and Inspector, stating such fact, which affidavit shall suffice, along with publication as provided for by this section, to give any ~~mortgagee~~ lienholder of record notice of such resale. Neither failure to send notice to any ~~mortgagee~~ lienholder of record of said real estate nor failure to receive notice as provided for by this section shall invalidate the resale, but the resale tax deed shall be ineffective to extinguish any ~~mortgage~~ lien on said real estate of a ~~mortgagee~~ lienholder to whom no notice was sent. Failure to receive the notice shall not invalidate the sale as to any owner or lienholder to whom notice was sent. Beginning on the effective date of this act, no encumbrancer of real property in this state shall be permitted to file any instrument purporting to encumber real property in any county of the state with any county clerk unless the

instrument states on its face the mailing address of such encumbrancer.

SECTION 7. AMENDATORY 68 O.S. 1991, Section 3142, is amended to read as follows:

Section 3142. Whenever any lands shall be sold for delinquent taxes under the provisions of this article, upon which any mortgage or other lien exists in favor of the State of Oklahoma, or the Commissioners of the Land Office or any other commission, board or officer having power to loan public funds, or any funds under the control of the state upon real estate security, such ~~tax shall be secondary at all times to the~~ sale shall be free and clear of each and every lien of the state, or of the Commissioners of the Land Office, or of such commission, board or officer.

SECTION 8. This act shall become effective November 1, 1996.

45-2-2315 KSM