

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 213

By: Helton of the Senate

and

Kirby of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to municipalities; amending 11 O.S. 2001, Sections 22-129, 27-129, and 39-104, which relate to warrants, appeals, and property assessed for improvements; providing for specified tax warrants under certain conditions; providing procedure; providing for specified court action under certain conditions; providing procedure; allowing for for collection of court cost from specified proceeds; modifying property which may be included in specified district; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2001, Section 22-129, is amended to read as follows:

Section 22-129. A. Where municipal improvements of any character are made by special assessments upon the abutting lots, or upon blocks, or where a special assessment may be created by ordinance for the direct benefit of a limited locality in a municipality, the governing body may issue a tax warrant against each separate abutting lot, in the manner provided by law, which shall be a valid lien on the lot and shall be extended, collected and bear a like penalty with other taxes of the state, county or municipality.

B. Where a municipality has abated any public nuisance in accordance with state law or municipal ordinance, the governing body may issue a tax warrant against each separate lot that was actually abated, in the manner provided by law, which shall be a valid lien

on the lot and shall be extended, collected and bear a like penalty with other taxes of the state, county or municipality.

SECTION 2. AMENDATORY 11 O.S. 2001, Section 27-129, is amended to read as follows:

Section 27-129. A. An appeal may be taken from a final judgment of the municipal court by the defendant by filing in the district court in the county where the situs of the municipal government is located, within ten (10) days from the date of the final judgment, a notice of appeal and by filing a copy of the notice with the municipal court. In case of an appeal, a trial de novo shall be had, and there shall be a right to a jury trial if the sentence imposed for the offense was a fine of more than Two Hundred Dollars (\$200.00) and costs.

B. Upon conviction, at the request of the defendant, or upon notice of appeal being filed, the judge of the municipal court shall enter an order on his docket fixing an amount in which bond may be given by the defendant, in cash or sureties for cash in an amount of not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00); except that, if the conviction involved a fine only, the amount of the bond shall be no greater than twice the amount of such fine. Bond shall be taken by the clerk of the court wherein judgment was rendered. Any pledge of sureties must be approved by a judge of the court.

C. Upon appeal being filed the judge shall within ten (10) days thereafter certify to the clerk of the appellate court the original papers in the case. If the papers have not been certified to the appellate court, the prosecuting attorney shall take the necessary steps to have the papers certified to the appellate court within twenty (20) days of the filing of the notice of appeal, and failure to do so, except for good cause shown, shall be grounds for dismissal of the charge by the appellate court, the cost to be taxed to the municipality. The certificate shall state whether or not the

municipal judge hearing the case was a licensed attorney in Oklahoma.

D. All proceedings necessary to carry the judgment into effect shall be had in the appellate court.

E. If the defendant fails to pursue the appeal or otherwise fails to claim any amounts due the defendant within sixty (60) days following the final disposition of the appeal, the court shall:

1. When a bond is given by a bail bondsman, perform the procedures set forth in Section 1332 of Title 59 of the Oklahoma Statutes whereby the municipal court clerk shall issue the required notice; or

2. a. the municipal judge shall issue an order declaring the bond to be forfeited on the day the defendant failed to perfect his or her appeal or otherwise claim amounts due to the defendant following an appeal and stating the reasons therefor, and
- b. within five (5) days of the order of forfeiture, the municipal court clerk shall file a certified copy of the order with the district court in the county where the municipal government is located. The district court shall treat the certified order of forfeiture as a foreign judgment and proceed in accordance with the provisions of Section 1332 of Title 59 of the Oklahoma Statutes. A surety shall have all remedies available under the provisions of Section 1108 of Title 22 and Sections 1301 through 1340 of Title 59 of the Oklahoma Statutes.

F. Court costs shall be collectible from the proceeds of a forfeited bond.

SECTION 3. AMENDATORY 11 O.S. 2001, Section 39-104, is amended to read as follows:

Section 39-104. Any district may include one or more streets or areas which need not be contiguous and may include two (2) or more types of improvements. Such improvements may be included in one (1) proceeding and constructed and financed as one improvement. The district shall include, for the purpose of assessment, all the property which the governing body determines is benefited by the improvement or improvements, including property utilized for public, governmental, burial, charitable or ~~religious~~ purposes, except ~~that~~ property of any religious organization used primarily for religious purposes, or of the United States, or any agency, instrumentality or corporation thereof, in the absence of consent of Congress. The board of county commissioners, the governing body of a city, town, school district or any agency or institution of state government is authorized to pay the amount assessed against property under its ownership or control.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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