

ENROLLED HOUSE
BILL NO. 2361

By: Banz of the House

and

Aldridge and Garrison of
the Senate

An Act relating to county treasurers; amending 11 O.S. 2001, Section 22-111, which relates to the general powers of municipalities; providing a time limit for forwarding of certain statement to the county treasurer; amending 19 O.S. 2001, Section 682, as amended by Section 4, Chapter 232, O.S.L. 2002 (19 O.S. Supp. 2005, Section 682), which relates to county treasurers; increasing certain fee; amending 42 O.S. 2001, Section 180, as amended by Section 2, Chapter 409, O.S.L. 2003 (42 O.S. Supp. 2005, Section 180), which relate to the enforcement of liens; providing for certain notice to be mailed to a county treasurer and county assessor; amending 68 O.S. 2001, Sections 2913 and 2916, which relates to ad valorem taxes; modifying the monetary range of a certain tax owed and payable before certain date; authorizing the county treasurer an additional medium of receiving payment; amending 68 O.S. 2001, Sections 3108, as amended by Section 1, Chapter 177, O.S.L. 2004 and 3117 (68 O.S. Supp. 2005, Section 3108), which relate to collection of delinquent taxes; clarifying representation allowed for certain purchasers; reducing the statute of limitations for tax sale certificates; deleting certain exception; repealing 68 O.S. 2001, Section 3127.1, which relates to notice of resale of real property; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2001, 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 the 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 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 written consent to the municipality authorizing the removal of the trash or the mowing of the weeds or grass. By giving written consent, the owner waives the owner's 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 the 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 the 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, then within the next sixty (60) days, 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. Once certified by the county treasurer, payment may only be made to the county treasurer except as otherwise provided for in this section. 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. At the time of collection the county treasurer shall collect a fee of Five Dollars (\$5.00) for each parcel of property. The fee shall be deposited to the credit of the general fund of the county. If the county treasurer and the municipality agree that the county treasurer is unable to collect the assessment, the municipality may pursue a civil remedy for collection of the amount owing and interest thereon by an action in person 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. 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 or to railroad property under the jurisdiction of the Oklahoma Corporation Commission. However, a municipal governing body may cause the removal of weeds or trash from property zoned and used for agricultural purposes pursuant to the provisions of this section but only if such weeds or trash pose a hazard to traffic and are located in, or within ten (10) yards of, the public right-of-way at intersections.

SECTION 2. AMENDATORY 19 O.S. 2001, Section 682, as amended by Section 4, Chapter 232, O.S.L. 2002 (19 O.S. Supp. 2005, Section 682), is amended to read as follows:

Section 682. It shall be the duty of each and every county officer, county board, county commission and all members and employees of either thereof, to deposit daily in the official depository designated in Section 681 of this title, all monies, checks, drafts, orders, vouchers, funds, rentals, penalties, costs, proceeds of sale of property, fees, fines, forfeitures and public charges of every kind received or collected by virtue or under color of office, except that each county officer, county board, and county commission is hereby authorized to keep in the office, from this deposit, no more than One Thousand Five Hundred Dollars (\$1,500.00) to be used for their change needs. The amount so retained shall not be cumulative so that after each such deposit there shall not be on hand more than authorized by this section. A notation of the retention of this money shall be made in the proper accounting records. All checks, drafts, orders and vouchers so deposited shall be credited and cleared at par, and should payment be refused on any check, draft, order or voucher, should the same prove otherwise worthless, the amount thereof and any costs accruing thereon shall be a charge against the account theretofore credited with the same. Each county officer is hereby authorized to assess and collect a fee of ~~Twenty Dollars (\$20.00)~~ Thirty-five Dollars (\$35.00) for each worthless check, draft, order or voucher. All monies when so received by the county treasurer, as such official depository, shall be deposited in interest-bearing accounts in financial institutions designated and qualified as county depositories as now provided by law and shall draw interest, subject to deduction of financial institution charges for maintaining, processing and collateralizing the account, at a rate of not less than three percent (3%) per annum on average daily balances, which interest shall be paid monthly; and, when collected, shall be credited to the respective funds and accounts so earning the same; provided, that all interest collected on monies deposited pursuant to the provisions hereof shall be paid into the county treasury monthly by the authority to whose financial institution account the same shall have accrued and shall be credited to the general or contingent fund of the county, except that in civil cases all interest earned on funds, other than court costs, deposited in court by litigants shall, when so ordered by the court upon deposit, be disposed of as the court orders. This provision shall only apply to such deposit in excess of One Thousand Dollars (\$1,000.00).

SECTION 3. AMENDATORY 42 O.S. 2001, Section 180, as amended by Section 2, Chapter 409, O.S.L. 2003 (42 O.S. Supp. 2005, Section 180), is amended to read as follows:

Section 180. A. The owner of real property upon which a manufactured home is located shall have a possessory lien to secure accrued storage or rental charges pursuant to a contract with the owner of the real property and the consumer.

B. Except as provided in this section, any lien or charge against a manufactured home for accrued storage or rental charges on the manufactured home upon the real property on which the manufactured home is or has been located is subordinate to the rights of a creditor with a perfected security interest or lien which is recorded on the document of title issued on the manufactured home.

C. The maximum storage charge which is not subordinated, and which is secured by the possessory lien, is a daily rate equal to

one-thirtieth (1/30) of the amount of the monthly payment last paid by the consumer, or if no payment has been made, the payment required pursuant to contract between the owner of the real property and the consumer, beginning on the date determined by this subsection, not to exceed thirty (30) days.

D. That portion of the possessory lien of the owner of the real property occurring after notice under this section shall have priority over a creditor with a perfected security interest fifteen (15) days from and after the date the owner of the real property or his agent shall have given the secured creditor notice that the manufactured home is abandoned or voluntarily surrendered by the consumer.

E. For the purposes of this section, a consumer abandons or voluntarily surrenders a manufactured home by:

1. The owner of the real property discovering or being notified of the intention to abandon or surrender; or

2. Failure to pay storage or rental charges when due.

F. Notice required by this section shall be mailed by certified mail, return receipt requested to the secured creditor of record on the document of title and to the mailing address listed therein. Notice by mail shall be effective on the date mailed. Additionally, notice shall also be mailed to the county treasurer and county assessor of the county where the manufactured home is located.

G. Unless the owner of the real property has a possessory lien which has priority pursuant to this section, it shall be unlawful for the owner of the real property to refuse to allow the creditor to repossess and move the manufactured home. In the event that the owner of the real property refuses to allow the creditor to repossess and move the home, then the owner of the real property shall be liable to the creditor for each day that the owner of the real property unlawfully maintains possession of the home, at a daily rate equal to one-thirtieth (1/30) of the monthly payment last paid by the consumer, or if no payment has been made, the payment required pursuant to the contract between the secured creditor and the consumer. The prevailing party shall be entitled to reasonable attorneys fees and costs.

H. The owner of the real property, pursuant to a possessory lien which has priority pursuant to this section, is entitled to recover the storage charges as set forth in this section. If the owner of the real property is required to retain legal counsel to recover the amounts subject to the possessory lien, such owner is entitled to recover reasonable attorneys fees and court costs incurred.

I. Upon receipt of notice of bankruptcy, the secured creditor shall, within five (5) days after receipt thereof, notify the owner of the real estate by certified mail, return receipt requested, of said bankruptcy. Failure of the secured creditor to notify said owner of the real estate will cause said creditor to be held liable for any storage charges not paid by the trustee in bankruptcy.

SECTION 4. AMENDATORY 68 O.S. 2001, Section 2913, is amended to read as follows:

Section 2913. A. All taxes levied upon an ad valorem basis for each fiscal year shall become due and payable on the first day of November. Except for mortgage servicers, the exclusive method for payment shall be as follows:

1. Unless one-half (1/2) of the taxes so levied has been paid before the first day of January, the entire tax levy for such fiscal year shall become delinquent on that date.

2. If the first half of the taxes levied upon an ad valorem basis for any such fiscal year has been paid before the first day of January, the second half shall be paid before the first day of April thereafter and if not paid shall become delinquent on that date.

In no event may payment be made in more than two equal installments subject to the provisions of the payment schedule specified in this subsection.

B. Mortgage servicers, as defined in 24 C.F.R., part 3500.17, shall pay all accounts which they are servicing in one annual payment before the first day of January or the entire tax levy for such fiscal year shall become delinquent on that date.

C. If the total tax owed is ~~Ten Dollars (\$10.00)~~ Twenty-five Dollars (\$25.00) or less, then the total amount must be paid before January 1. If the total tax is not paid before January 1, the unpaid balance owing shall become delinquent on the first day of January and shall be subject to delinquent charges as provided for in this section.

D. All delinquent taxes shall bear interest at the rate of one and one-half percent (1 1/2%) per month or major fraction thereof until paid. In no event shall such interest exceed a sum equal to the unpaid principal amount of tax, and when such interest has accumulated to a sum equivalent to one hundred percent (100%) of the unpaid tax the further accumulation of interest shall cease.

E. The county treasurer shall stamp the date of receipt on each letter received containing funds for payment of taxes and no interest shall be added or charged after the receipt of such letter or the amount due. It shall be the duty of every person subject to taxation according to the law to attend the county treasurer's office and pay his or her taxes. If any person neglects to pay his or her taxes until after they have become delinquent, the county treasurer is directed and required to collect the delinquent tax as provided for by law. The first half of taxes payable pursuant to the provisions of this section shall not become delinquent until thirty (30) days after the tax rolls have become completed and filed by the county assessor with the county treasurer.

F. The county treasurer may waive penalties or interest in any case where it is shown to the county treasurer that such penalties or interest were incurred through no fault of the taxpayer. Each waiver of penalties or interest shall be audited by the Office of the State Auditor and Inspector each year during the annual audit of the county offices.

SECTION 5. AMENDATORY 68 O.S. 2001, Section 2916, is amended to read as follows:

Section 2916. All state, county, school district, city, town, or other taxes shall be paid to the county treasurer, either in lawful currency, or by check or draft upon a bank therein stated, or by post office or express order, or at the option of the county treasurer, by a nationally recognized credit or debit card as determined acceptable by the Oklahoma Tax Commission. If payment is made by a credit or debit card, the county treasurer may add an amount equal to the amount of the service charge incurred for the acceptance of such card. County treasurers may enter into contracts for credit card processing services according to applicable county purchasing law or may enter into agreements with the State Treasurer to participate in any credit card processing agreements entered into by the State Treasurer. It shall be unlawful for any county treasurer to receive in payment of any taxes to be collected, any state, county, school district, city or town warrants. No county treasurer shall be required to execute a tax receipt for any taxes except those paid in lawful money, until the check, draft, post office or express order has been actually paid, and in case any such check, draft, post office or express order should prove to be worthless, it shall not operate as a payment of the tax for the payment of which it was given, and any tax receipt or other receipt given therefor shall be illegal and void. Further, the county treasurer has the option of requiring cash as the method of payment if the taxpayer has previously issued bad or hot checks.

SECTION 6. AMENDATORY 68 O.S. 2001, Section 3108, as amended by Section 1, Chapter 177, O.S.L. 2004 (68 O.S. Supp. 2005, Section 3108), is amended to read as follows:

Section 3108. The first person who offers to pay the full amount due on any parcel of land shall be considered to be the successful purchaser. Any person offering to pay the full amount due shall only represent one person or legal entity at the sale. Brokers or agents representing or submitting bids for multiple parties or entities shall not be allowed. In the event that more than one such person shall so appear at the same time the county treasurer shall decide the issue by fair and impartial drawing. Parcels of land shall be sold to prospective purchasers on a first-come, first-served basis. The county treasurer is hereby authorized at all tax sales made under the laws of this state, in case there are no other purchasers offering the amount due, to purchase all or any real estate offered at the sale for the amount of taxes, penalty, interest and costs due and unpaid thereon, in the name of the county in which the sale takes place, the county acquiring all the rights both legal and equitable that any other purchaser could acquire by reason of the purchase. Whenever the county treasurer of any county shall purchase any real estate in the name of the county, the county treasurer shall note the purchase upon the sale record and show the same in the return of sale.

SECTION 7. AMENDATORY 68 O.S. 2001, Section 3117, is amended to read as follows:

Section 3117. (a) A statute of limitation of ~~seven (7)~~ three (3) years is hereby fixed for tax sale certificates. No firm, association, corporation or individual holding a tax sale certificate shall be entitled to have a tax deed issued thereon after ~~seven (7)~~ three (3) years shall have elapsed from the date of the issuance of said tax sale certificate. In such cases the right

to such deed shall be barred by the lapse of said ~~seven-year~~ three-year period ~~unless he has kept the taxes for all subsequent years endorsed thereon~~. The county treasurer of said county is directed to make the proper entry on the tax rolls and sale records of said county showing that said certificate has been canceled, and the county clerk of said county is directed to make the proper entry on his sales record showing that said certificate has been canceled.

(b) When a person entitled to redeem from a tax sale as evidenced by a tax sale certificate held by a firm, association, corporation or individual, pays sufficient money to the county treasurer to redeem said property from said tax sale, the holder of said tax certificate shall not be entitled to recover or receive said redemption money unless the tax sale certificate shall be presented and surrendered to the county treasurer within ~~seven (7)~~ three (3) years from the date such redemption money is paid to the county treasurer. After the expiration of said ~~seven-year~~ three-year period, said redemption money shall be credited by the county treasurer to the general fund of the county, and he shall mark his records accordingly.

SECTION 8. REPEALER 68 O.S. 2001, Section 3127.1, is hereby repealed.

SECTION 9. This act shall become effective July 1, 2006.

SECTION 10. 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.

Passed the House of Representatives the 22nd day of February,
2006.

Presiding Officer of the House of
Representatives

Passed the Senate the 17th day of April, 2006.

Presiding Officer of the Senate