

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SUBCOMMITTEE RECOMMENDATION  
4 FOR

5 HOUSE BILL NO. 2536

6 By: McCullough

7 SUBCOMMITTEE RECOMMENDATION

8 An Act relating to cities and towns; amending 11 O.S.  
9 2001, Section 22-111, as amended by Section 1,  
10 Chapter 77, O.S.L. 2006 (11 O.S. Supp. 2007, Section  
11 22-111), which relates to the Oklahoma Municipal  
12 Code; modifying fees for discharge of certain lien;  
13 amending 19 O.S. 2001, Section 266, which relates to  
14 filing and copying fees charged to state governmental  
15 entities by the county clerk; expanding exemptions to  
16 include municipalities; amending 28 O.S. 2001,  
17 Section 32, as last amended by Section 2, Chapter  
18 288, O.S.L. 2004 (28 O.S. Supp. 2007, Section 32),  
19 which relates to county clerk fees; exempting cities  
20 and municipalities from certain fees; and providing  
21 an effective date.

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

23 SECTION 1. AMENDATORY 11 O.S. 2001, Section 22-111, as  
24 amended by Section 1, Chapter 77, O.S.L. 2006 (11 O.S. Supp. 2007,  
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

1 weeds or grass to be cut or mowed in accordance with the following  
2 procedure:

3 1. At least ten (10) days' notice shall be given to the owner  
4 of the property by mail at the address shown by the current year's  
5 tax rolls in the county clerk's or county treasurer's office before  
6 the governing body holds a hearing or takes action. The notice  
7 shall order the property owner to clean the property of trash, or to  
8 cut or mow the weeds or grass on the property, as appropriate, and  
9 the notice shall further state that unless such work is performed  
10 within ten (10) days of the date of the notice the work shall be  
11 done by the municipality and a notice of lien shall be filed with  
12 the county clerk against the property for the costs due and owing  
13 the municipality. At the time of mailing of notice to the property  
14 owner, the municipality shall obtain a receipt of mailing from the  
15 postal service, which receipt shall indicate the date of mailing and  
16 the name and address of the mailee. However, if the property owner  
17 cannot be located within ten (10) days from the date of mailing by  
18 the municipal governing body, notice may be given by posting a copy  
19 of the notice on the property or by publication, as defined in  
20 Section 1-102 of this title, one time not less than ten (10) days  
21 prior to any hearing or action by the municipality. If a municipal  
22 governing body anticipates summary abatement of a nuisance in  
23 accordance with the provisions of subsection B of this section, the  
24 notice, whether by mail, posting or publication, shall state: that

1 any accumulations of trash or excessive weed or grass growth on the  
2 owner's property occurring within six (6) months from and after the  
3 date of this notice may be summarily abated by the municipal  
4 governing body; that the costs of such abatement shall be assessed  
5 against the owner; and that a lien may be imposed on the property to  
6 secure such payment, all without further prior notice to the  
7 property owner;

8 2. The owner of the property may give written consent to the  
9 municipality authorizing the removal of the trash or the mowing of  
10 the weeds or grass. By giving written consent, the owner waives the  
11 owner's right to a hearing by the municipality;

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

18 4. Upon a finding that the condition of the property  
19 constitutes a detriment or hazard, and that the property would be  
20 benefited by the removal of such conditions, the agents of the  
21 municipality are granted the right of entry on the property for the  
22 removal of trash, mowing of weeds or grass, and performance of the  
23 necessary duties as a governmental function of the municipality.  
24 Immediately following the cleaning or mowing of the property, the

1 municipal clerk shall file a notice of lien with the county clerk  
2 describing the property and the work performed by the municipality,  
3 and stating that the municipality claims a lien on the property for  
4 the cleaning or mowing costs;

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

16 6. If payment is not made within thirty (30) days from the date  
17 of the mailing of the statement, then within the next sixty (60)  
18 days, the municipal clerk shall forward a certified statement of the  
19 amount of the cost to the county treasurer of the county in which  
20 the property is located and the same shall be levied on the property  
21 and collected by the county treasurer as other taxes authorized by  
22 law. Once certified by the county treasurer, payment may only be  
23 made to the county treasurer except as otherwise provided for in  
24 this section. Until fully paid, the cost and the interest thereon

1 shall be the personal obligation of the property owner from and  
2 after the date the cost is certified to the county treasurer. In  
3 addition the cost and the interest thereon shall be a lien against  
4 the property from the date the cost is certified to the county  
5 treasurer, coequal with the lien of ad valorem taxes and all other  
6 taxes and special assessments and prior and superior to all other  
7 titles and liens against the property, and the lien shall continue  
8 until the cost shall be fully paid. At the time of collection the  
9 county treasurer shall collect a fee of ~~Five Dollars (\$5.00)~~ Thirty  
10 Dollars (\$30.00) for each parcel of property. ~~The Ten Dollars~~  
11 (\$10.00) of the fee shall be deposited to the credit of the general  
12 fund of the county, and the remaining Twenty Dollars (\$20.00) of the  
13 fee shall be deposited in the county clerk's office. If the county  
14 treasurer and the municipality agree that the county treasurer is  
15 unable to collect the assessment, the municipality may pursue a  
16 civil remedy for collection of the amount owing and interest thereon  
17 by an action in person against the property owner and an action in  
18 rem to foreclose its lien against the property. A mineral interest,  
19 if severed from the surface interest and not owned by the surface  
20 owner, shall not be subject to any tax or judgment lien created  
21 pursuant to this section. Upon receiving payment, if any, the  
22 municipal clerk shall forward to the county treasurer a notice of  
23 such payment and directing discharge of the lien; and

24

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

9           B. If a notice is given by a municipal governing body to a  
10 property owner ordering the property within the municipal limits to  
11 be cleaned of trash and weeds or grass to be cut or mowed in  
12 accordance with the procedures provided for in subsection A of this  
13 section, any subsequent accumulations of trash or excessive weed or  
14 grass growth on the property occurring within a six-month period may  
15 be declared to be a nuisance and may be summarily abated without  
16 further prior notice to the property owner. At the time of each  
17 such summary abatement the municipality shall notify the property  
18 owner of the abatement and the costs thereof. The notice shall  
19 state that the property owner may request a hearing within ten (10)  
20 days after the date of mailing the notice. The notice and hearing  
21 shall be as provided for in subsection A of this section. Unless  
22 otherwise determined at the hearing the cost of such abatement shall  
23 be determined and collected as provided for in paragraphs 5 and 6 of  
24 subsection A of this section. This subsection shall not apply if

1 the records of the county clerk show that the property was  
2 transferred after notice was given pursuant to subsection A of this  
3 section.

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

9 D. As used in this section:

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

13 a. exceeds twelve (12) inches in height, except healthy  
14 trees, shrubs, or produce for human consumption grown  
15 in a tended and cultivated garden unless such trees  
16 and shrubbery by their density or location constitute  
17 a detriment to the health, benefit and welfare of the  
18 public and community or a hazard to traffic or create  
19 a fire hazard to the property or otherwise interfere  
20 with the mowing of said weeds<sup>†</sup><sub>1</sub>

21 b. regardless of height, harbors, conceals, or invites  
22 deposits or accumulation of refuse or trash<sup>†</sup><sub>1</sub>

23 c. harbors rodents or vermin<sup>†</sup><sub>1</sub>

24 d. gives off unpleasant or noxious odors<sup>†</sup><sub>1</sub>

1 e. constitutes a fire or traffic hazard~~+~~, or

2 f. is dead or diseased.

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

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

9 3. "Owner" means the owner of record as shown by the most  
10 current tax rolls of the county treasurer~~;~~ or county clerk; and

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

12 E. The provisions of this section shall not apply to any  
13 property zoned and used for agricultural purposes or to railroad  
14 property under the jurisdiction of the Oklahoma Corporation  
15 Commission. However, a municipal governing body may cause the  
16 removal of weeds or trash from property zoned and used for  
17 agricultural purposes pursuant to the provisions of this section but  
18 only if such weeds or trash pose a hazard to traffic and are located  
19 in, or within ten (10) yards of, the public right-of-way at  
20 intersections.

21 SECTION 2. AMENDATORY 19 O.S. 2001, Section 266, is  
22 amended to read as follows:

23 Section 266. The county clerk may charge any state agency or  
24 other state governmental entity, except child support enforcement

1 offices operated by or for the benefit of the Oklahoma Department of  
2 Human Services, rural water districts organized pursuant to the  
3 Rural Water, Sewer, Gas and Solid Waste Management Districts Act,  
4 and ~~the Oklahoma Boll Weevil Eradication Organization for liens~~  
5 ~~filed pursuant to the Boll Weevil Eradication Act~~ any municipal  
6 governing body, the usual and customary fee for filing any document  
7 with the county clerk and may charge the usual and customary fee for  
8 making copies of any document.

9 SECTION 3. AMENDATORY 28 O.S. 2001, Section 32, as last  
10 amended by Section 2, Chapter 288, O.S.L. 2004 (28 O.S. Supp. 2007,  
11 Section 32), is amended to read as follows:

12 Section 32. A. Notwithstanding any other provision of law  
13 county clerks shall charge and collect the following flat fees to be  
14 uniform throughout the state regardless of the recording method  
15 used, and the county clerks shall not be required to itemize or  
16 charge these fees pursuant to any other schedule, except as  
17 specifically provided by law:

- 18 1. For recording the first page of deeds,  
19 mortgages and any other instruments not  
20 subject to the fee imposed by Section 1-9-525  
21 of Title 12A of the Oklahoma Statutes.....\$8.00
- 22 2. For recording each additional page of same  
23 instrument.....\$2.00

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- 1        3. For furnishing hard copies of microfilmed
- 2            records to bonded abstractors only, per page.....\$1.00
- 3        4. For furnishing photographic copies of
- 4            photographic records, or of typewritten script
- 5            or printed records, per page.....\$1.00
- 6        5. For recording plat of one block or less..... \$10.00
- 7        6. For recording plat of more than one block..... \$25.00
- 8        7. For certifying to any copy per page..... \$1.00
- 9        8. For recording an assignment of Tax Sale
- 10           Certificate to be paid by the party purchasing.....\$5.00
- 11        9. For recording of any mark or brand and giving
- 12           certificate for same.....\$5.00
- 13        10. For recording each certificate for estrays
- 14           and forwarding description of same, as
- 15           required by law.....\$1.00
- 16        11. a. For recording and filing of mechanics'
- 17           or materialmen's liens which includes
- 18           the release thereof.....\$10.00
- 19           b. For preparing and mailing notice of
- 20           mechanics' or materialmen's lien.....\$8.00
- 21           plus the actual cost of postage
- 22           c. For each additional page or exhibit.....\$2.00
- 23        12. For recording and filing of fictitious name
- 24           partnership certificates.....\$5.00

1 To this fee shall be added the fees required  
2 by Sections 81 through 86 of Title 54 of the  
3 Oklahoma Statutes.

4 13. For recording the first page of deeds,  
5 mortgages, and any other instruments which  
6 are nonconforming pursuant to subsection C of  
7 Section 298 of Title 19 of the Oklahoma  
8 Statutes..... \$25.00

9 14. For recording each additional page of an  
10 instrument which is nonconforming pursuant to  
11 subsection C of Section 298 of Title 19 of  
12 the Oklahoma Statutes..... \$10.00

13 B. The fees prescribed in paragraph 4 of subsection A of this  
14 section shall be deposited into the County Clerk's Lien Fee Account,  
15 created pursuant to Section 265 of Title 19 of the Oklahoma  
16 Statutes.

17 C. For the purpose of preserving, maintaining, and archiving  
18 recorded instruments including, but not limited to, records  
19 management, records preservation, automation, modernization, and  
20 related lawful expenditures, in addition to all other fees required  
21 by law, the county clerk shall collect Five Dollars (\$5.00) for each  
22 instrument recorded with the Registrar of Deeds.

23 D. There is hereby created a fund to be known as the "County  
24 Clerk's Records Management and Preservation Fund". The fund shall

1 be a continuing fund, not subject to fiscal year limitations, and  
2 shall consist of the fees and monies accruing to the fund, as  
3 prescribed in subsection C of this section with all monies accruing  
4 to the fund to be expended by the clerk and not transferred to any  
5 other fund. The intent of this section is to increase the net  
6 funding level available to the county clerk to maintain and preserve  
7 public records.

8 E. The fees and costs prescribed in this section shall not  
9 apply to child support enforcement offices operated by or on behalf  
10 of the Department of Human Services' Child Support Enforcement  
11 Division. County clerks shall not charge any fees or costs to such  
12 offices, the Division, or the Department.

13 F. The fees and costs prescribed in this section shall not  
14 apply to nuisance and lien filings filed on behalf of cities and  
15 municipalities.

16 SECTION 4. This act shall become effective November 1, 2008.

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