

1 ENGROSSED SENATE
2 BILL NO. 590

By: Laughlin of the Senate

and

Hickman of the House

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7 An Act relating to counties and county officers;
8 amending 11 O.S. 2001, Section 41-108, which relates
9 to plat record specifications; providing for filing
10 for reduced copy of plats; amending 19 O.S. 2001,
11 Sections 155.2, 347, 1501, as last amended by Section
12 2, Chapter 356, O.S.L. 2005, 1505, as amended by
13 Section 6, Chapter 447, O.S.L. 2004 (19 O.S. Supp.
14 2006, Sections 1501 and 1505), which relate to
15 destruction of old records, certificates of
16 indebtedness, equipment or vehicles, duties of the
17 county purchasing agent, and procedures for
18 requisition, purchase, lease-purchase, rental and
19 receipt of supplies, materials, and equipment for
20 maintenance, operation, and capital expenditures or
21 county government; authorizing the destruction of
22 certain records; prohibiting certain county officers
23 from making certain changes in county computer
24 software being used; deleting obsolete language used
for county bid limits; requiring payment of certain
purchases within a certain period of time; amending
42 O.S. 2001, Section 147.1, as amended by Section 4,
Chapter 184, O.S.L. 2003 (42 O.S. Supp. 2006, Section
147.1), which relates to discharge of lien; making
statutory reference; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 2001, Section 41-108, is
amended to read as follows:

1 Section 41-108. Any plat submitted for recording shall have the
2 following specifications:

3 1. The dimensions of the plat shall be twenty-four (24) by
4 thirty-six (36) inches or shall be a size that can be properly and
5 conveniently folded to these dimensions and shall be drawn to a
6 minimum scale of one hundred (100) feet to the inch; except that
7 plats in which all lots contain a net area in excess of forty
8 thousand (40,000) square feet, the plat may be drawn to a scale of
9 two hundred (200) feet to the inch;

10 2. The drawing surface of the plat shall have a binding margin
11 of two (2) inches at the left side of the plat, a margin of not less
12 than one (1) inch at the right side, and a margin of not less than
13 one and one-half (1 1/2) inches at the top and bottom;

14 3. The original tracing of each plat and two prints and a
15 reduced copy in the dimension of 8 1/2 x 11 thereof shall be
16 presented for recording;

17 4. The original plat shall be an original drawing made with
18 india ink on a good grade linen tracing cloth, or with a suitable
19 black acetate base ink on a stable polyester base film coated upon
20 completion with a suitable plastic material to prevent flaking and
21 to assure permanent legibility, or a print on a stable polyester
22 base film made by photographic processes from a film scribing tested
23 for residual hypo with an approved hypo testing solution to assure
24 permanency;

1 5. Marginal lines, standard certificates and approval forms may
2 be printed or legibly stamped on the plat with permanent opaque
3 black ink when permitted by local ordinance; and

4 6. The county clerk may require one of the prints to be a
5 blueprint cloth and the other print to be a photographic matte film
6 positive.

7 SECTION 2. AMENDATORY 19 O.S. 2001, Section 155.2, is
8 amended to read as follows:

9 Section 155.2 A. The county clerk in each county in Oklahoma
10 is hereby authorized each year to destroy the following workbooks,
11 reports and transient and subsidiary records that have been on file
12 or stored in the office the period of time specifically provided
13 herein.

- 14 1. After the expiration of one (1) year:
- 15 a. unused blank forms printed for fiscal year series, and
 - 16 b. blank forms obsolete by change of law;
- 17 2. After the expiration of five (5) years:
- 18 a. financing statements, except as otherwise provided by
19 Article 9 of Title 12A of the Oklahoma Statutes or
20 other statute, chattel mortgages, bills of sale,
21 releases and renewals thereof, after the same ceases
22 to be effective,
 - 23 b. all county claims, claim calendars,
 - 24 c. chattel mortgage indexes,

- d. appropriation ledgers, warrant ledgers, financial ledgers,
- e. requisitions,
- f. upon retirement, discharge, or termination of employment, loyalty oath of said employee or officer,
- g. certificates of error,
- h. copies of reports and remittances, deposits and receipts,
- i. monthly reports to the State Auditor and Inspector and reports to other officers and warrant issues,
- j. daily reports including daily report jacket and all contents therein,
- k. physician liens, insurance agent's liens, hospital liens, thresher and combiners liens, mechanic and materialmans liens, oil and gas liens, vendor liens, banker liens, mining liens, district attorney liens, labor liens, and personal property liens,
- l. reports, checks, purchase orders and other bookkeeping records,
- m. all tax protests, evidences, letters of orders of the board, letters of increased assessment, correspondence, reports, docket books, lists of parcels under protest, agendas, and

1 n. records pertaining to the Open Meetings Act and Open
2 Records Act;

3 3. After the expiration of seven (7) years after the final
4 settlement following appeal to district court, all tax protest
5 records;

6 4. After the expiration of seven (7) years, balance sheets,
7 deposit slips, tax records, W-2's and investment authorization slips
8 for the retirement system; ~~and~~

9 5. After the expiration of ten (10) years:

10 a. all tax rolls and tax roll adjustments, and

11 b. all special assessment rolls; and

12 6. County school records as transferred from the county
13 superintendent's office may be destroyed in accordance with the
14 State Department of Education standards.

15 B. The State Library may be given any records that would
16 otherwise be destroyed.

17 SECTION 3. AMENDATORY 19 O.S. 2001, Section 347, is
18 amended to read as follows:

19 Section 347. A. With respect to counties seeking cash-flow
20 management during any fiscal year, any county may issue and deliver
21 certificates of indebtedness bearing a stated maturity date for the
22 purpose of participating in a short-term cash management program
23 pursuant to the provisions of Section 177.2 of Title 60 of the
24 Oklahoma Statutes to fund the estimated costs of operations, capital

1 expenditures or other lawful costs of the county, or any of its
2 public trusts as operator of its property, for the current fiscal
3 year. The proceeds of certificates of indebtedness shall be set
4 aside in a separate account and used only for the purpose of meeting
5 expenditures and obligations which would otherwise be lawfully
6 payable from the revenue certified by the county excise board. As
7 proceeds from the certificates are used to pay such lawful
8 expenditures and obligations, the financial records of the county
9 shall reflect the amounts of these obligations paid with such
10 proceeds so that a like amount of revenue collected and available to
11 the county may be used to repay the certificates of indebtedness, in
12 whole or in part. The State Auditor and Inspector shall adopt
13 uniform accounting procedures for use by the counties to ensure that
14 the issuance of certificates of indebtedness and the use of the
15 proceeds derived from these certificates will be documented and will
16 not result in a district overspending its authorized budget. All
17 certificates of indebtedness shall be issued, delivered and
18 registered for payment in the specific manner designated by the
19 State Auditor and Inspector; provided, any such certificates of
20 indebtedness shall be made payable on any date within the then
21 current fiscal year and may be purchased for value through the
22 funding of uncollateralized investments made for the benefit of and
23 on behalf of the county. Short-term cash management programs of any
24 county may lawfully provide for the investment of note, bond or

1 certificate proceeds by the issuer of the obligations with the
2 benefit and use of such proceeds assured to the county when needed
3 by the county. Monies remaining in any such investment agreement or
4 investments may be applied to or credited for the payment of the
5 certificate of indebtedness by trust instruction when due in a like
6 and similar manner provided for the transfer of monies by subsection
7 J of Section 5-135 of Title 70 of the Oklahoma Statutes. In no case
8 may a county participate in a short-term cash management program in
9 any given fiscal year beyond that fiscal year. Monies received by a
10 county pursuant to a short-term cash management program may be used
11 only for those purposes for which other monies of the county may be
12 lawfully expended.

13 B. It shall be unlawful for the board of county commissioners
14 to issue any certificate of indebtedness, in any form, in payment of
15 or representing or acknowledging any account, claim, or indebtedness
16 against the county, or to make any contracts for or incur any
17 indebtedness against the county in excess of the amount then
18 unexpended and unencumbered of the sum appropriated for the specific
19 item of estimated needs for such purpose theretofore made,
20 submitted, and approved or authorized for such purpose by a bond
21 issue. All warrants upon the county treasurer, for a county
22 purpose, shall be issued upon the order of the board of county
23 commissioners, drawn by the county clerk, signed by the chairman of
24 the board, and attested by the signature of the county clerk, with

1 the county seal attached. Each warrant shall designate the fund,
2 department and appropriation account, and shall further show the
3 nature of the indebtedness acknowledged by the allowance of the
4 claim so paid.

5 C. Whenever a county officer holding an elective office will
6 not immediately succeed ~~himself~~ themselves in said office, it shall
7 be unlawful for the board of county commissioners, during the first
8 six months of the fiscal year in which said term of office expires,
9 to approve claims for the operation of said office totaling in
10 excess of one-half the amount allocated for the operation of said
11 office during said fiscal year, unless approval in writing is
12 obtained from the county excise board, and any claim in excess
13 thereof and any warrant issued pursuant thereto shall be null and
14 void.

15 D. It shall be unlawful that whenever a county officer holding
16 an elective office will not immediately succeed themselves in said
17 office to make any changes or alterations in the licensing or source
18 code of computer software currently being used.

19 SECTION 4. AMENDATORY 19 O.S. 2001, Section 1501, as
20 last amended by Section 2, Chapter 356, O.S.L. 2005 (19 O.S. Supp.
21 2006, Section 1501), is amended to read as follows:

22 Section 1501. A. The county purchasing agent:

23 1. Shall, within the amount of the unencumbered balance, make
24 all purchases that are paid from county funds for the various

1 institutions, departments, officers, and employees of the county,
2 except at public auctions and as otherwise provided for by law;

3 2. May make purchases for political subdivisions of this state
4 within the county if authorized by appropriate action of the
5 governing board or body of the political subdivision affected;

6 3. Shall make purchases and rental or lease-purchase agreements
7 only after following the bidding procedures as provided for by law,
8 except:

9 a. when the purchase does not exceed Ten Thousand Dollars
10 (\$10,000.00). All purchases made pursuant to this
11 subparagraph shall be by a single purchase order.

12 Splitting purchase orders which would result in paying
13 an amount in excess of the limitations specified in
14 this subparagraph is expressly prohibited. Any person
15 convicted of violating the provisions of this
16 subparagraph shall be guilty of a misdemeanor and such
17 person shall forfeit the person's position or office,

18 b. when the total payments of a rental or lease-purchase
19 agreement do not exceed ~~Five Thousand Dollars~~
20 ~~(\$5,000.00)~~ the current bid limit as established in
21 paragraph a of this section,

22 c. when articles and items are covered by single source
23 contracts,
24

- 1 d. service or maintenance contracts on equipment or
2 machinery which are entered into at the time of the
3 purchase of the equipment or machinery,
- 4 e. purchases made pursuant to a blanket purchase order as
5 provided for in Section 310.8 of Title 62 of the
6 Oklahoma Statutes,
- 7 f. when materials for road or bridge improvements do not
8 exceed Three Dollars (\$3.00) per yard or per ton,
- 9 g. purchases of fuel if the county purchasing agent
10 obtains telephone quotes from at least three vendors
11 prior to the purchase and the lowest and best quote is
12 selected. Documentation of these quotes shall be
13 recorded in the permanent records of the clerk,
- 14 h. purchases of tools, apparatus, machinery or equipment
15 from a state agency or a political subdivision of the
16 state as provided for in subsection C of Section 421.1
17 of this title,
- 18 i. purchases of food for prisoners incarcerated in the
19 county jail; provided, in counties having a population
20 in excess of one hundred thousand (100,000) persons,
21 the county purchasing agent shall follow bidding
22 procedures as provided by law unless the county
23 purchasing agent obtains telephone quotes pursuant to
24 the whole total of food items requisitioned prior to

1 the purchase and the lowest and best quote is
2 selected. Documentation of these quotes shall be
3 recorded in the permanent records of the county clerk,

4 j. when a county solicits bids for the purchase of
5 processed native materials for road and bridge
6 improvements, the county may accept all bids received,
7 with the lowest and best bid from those accepted to be
8 selected at the time of opening of any construction
9 project. The selection of the bid shall be based upon
10 availability, bid price, plus transportation costs,

11 k. when a vendor has been selected as the lowest and best
12 bidder to furnish a particular item or items to the
13 county during a specified time period and in the event
14 the vendor is unable to perform, the purchasing agent
15 may solicit telephone quotes for the item or items
16 needed from the list of qualified bidders and provide
17 for the purchase of the items at the lowest and best
18 quote available,

19 l. when considering the purchase of an item or items from
20 the state bid list as provided by the Department of
21 Central Services or the General Services
22 Administration, if the same exact item is available
23 from a local vendor at or below the price listed on
24 the state bid list or the General Services

1 Administration list, the item may be obtained from the
2 vendor,

3 m. any item or items bid by the Department of Central
4 Services which may be purchased by the county,
5 provided the vendor is willing to supply the item or
6 items to the county at the bid price,

7 n. when a county obtains proceeds from the sale of its
8 property at a public auction, that county may use
9 those proceeds to acquire items previously identified
10 as needed by the county at the same public auction
11 pursuant to subsection D of Section 1505 of this
12 title,

13 o. when an item or items have been competitively bid by a
14 county, or on behalf of a group of contiguous
15 counties, provided:

16 (1) the notice to bidders shall list each county
17 which may participate in the purchase of the item
18 or items being bid,

19 (2) the notice of bid is advertised, as provided by
20 law, in each of the counties which may
21 participate in the purchase of the item or items,

22 (3) all vendors on the list of qualified bidders of
23 each participating county who offer the item or
24

1 items for sale received notice of the bid
2 request, and

3 (4) the vendor awarded the bid is willing and able to
4 provide the item or items at the bid price,

5 p. counties may participate in a nationwide purchasing
6 program sponsored by the national association
7 representing counties, or

8 q. when the Governor declares an emergency in a county,
9 the district attorney of that county shall have the
10 authority to temporarily waive competitive bidding
11 procedures for purchases that may expedite a response
12 to the emergency situation. This temporary waiver
13 shall be in addition to any powers exercised pursuant
14 to Section 683.11 of Title 63 of the Oklahoma
15 Statutes.

16 The purchases shall be paid by attaching properly itemized
17 invoices, as described in Section 1505 of this title, to a purchase
18 order which has been prepared by the county purchasing agent and
19 submitting both to the county clerk for filing, encumbering, and
20 consideration for payment by the board of county commissioners;

21 4. Shall not furnish any supplies, materials, equipment, or
22 other articles, except upon receipt of a requisition signed by a
23 county officer. Written requisitions will not be required for
24 blanket purchase orders as provided for in Section 310.8 of Title 62

1 of the Oklahoma Statutes. Each county officer may designate not
2 more than two employees who also shall be authorized to sign
3 requisitions in the absence of the county officer. A written
4 designation of the employees shall be filed with the county clerk
5 and shall be entered in the minutes of the board of county
6 commissioners;

7 5. Shall make lease or lease-purchase agreements for road
8 machinery and equipment if the county has adequate funds
9 appropriated during any fiscal year for such purpose and only after
10 following the bidding procedures as provided for in Section 1505 of
11 this title. The term of any lease or lease-purchase agreement
12 authorized pursuant to this paragraph may be for any period up to
13 one (1) year, provided, the term shall not extend beyond the end of
14 any fiscal year, with an option to renew such agreement subject to
15 the requirement that adequate funds are appropriated during the
16 fiscal year by the county for such purpose. The State Auditor and
17 Inspector's office shall be notified by the county of the terms and
18 conditions of a lease or lease-purchase agreement authorized
19 pursuant to this paragraph before any such agreement is made by the
20 county purchasing agent; and

21 6. Shall perform such other duties as may be delegated by the
22 appointing authority or as may be provided for by law.

23 B. Each department of county government needing repairs to
24 equipment, machinery or vehicles shall make estimates and

1 requisition a purchase order from the county purchasing agent for
2 repairs not in excess of Two Thousand Five Hundred Dollars
3 (\$2,500.00). Repairs in excess of Two Thousand Five Hundred Dollars
4 (\$2,500.00), shall be submitted on a blanket purchase order as
5 provided in Section 310.8 of Title 62 of the Oklahoma Statutes.

6 SECTION 5. AMENDATORY 19 O.S. 2001, Section 1505, as
7 amended by Section 6, Chapter 447, O.S.L. 2004 (19 O.S. Supp. 2006,
8 Section 1505), is amended to read as follows:

9 Section 1505. The following procedures shall be used by
10 counties for the requisition, purchase, lease-purchase, rental, and
11 receipt of supplies, materials, and equipment for the maintenance,
12 operation, and capital expenditures of county government unless
13 otherwise provided for by law.

14 A. The procedure for requisitioning items for county offices
15 shall be as follows:

16 1. The requesting department shall prepare a requisition form
17 in triplicate. The requisition shall contain any specifications for
18 an item as deemed necessary by the requesting department. The form
19 shall be prescribed by the State Auditor and Inspector;

20 2. The requesting department shall retain a copy of the
21 requisition and forward the original requisition and a copy to the
22 county purchasing agent; and

23 3. Upon receipt of the requisition, the county purchasing
24 agent, within two (2) working days, shall begin the bidding and

1 purchasing process as provided for in this section. Nothing in this
2 section shall prohibit the transfer of supplies, materials, or
3 equipment between county departments upon a written agreement
4 between county officers.

5 B. The bid procedure for selecting a vendor for the purchase,
6 lease-purchase, or rental of supplies, materials, and equipment used
7 by a county shall be as follows:

8 1. The county purchasing agent shall request written
9 recommendations from all county officers pertaining to commonly used
10 supplies, materials, and equipment. From such recommendations and
11 available requisition, purchase, or inventory records, the county
12 purchasing agent shall prepare a list of items commonly used by
13 county officers. The county purchasing agent shall request from the
14 Purchasing Division of the Department of Central Services all
15 contracts quoting the price the state is paying for the items. The
16 county purchasing agent shall either request the Purchasing Division
17 of the Department of Central Services to make the purchase for the
18 county or solicit bids for unit prices on the items for periods of
19 not to exceed twelve (12) months in the manner described in
20 paragraph 2 of this subsection. If the county purchasing agent
21 receives a requisition for an item for which the county purchasing
22 agent does not have a current bid, the county purchasing agent shall
23 request from the Purchasing Division of the Department of Central
24 Services all contracts quoting the price the state is paying for the

1 item. The county purchasing agent shall either request the
2 Purchasing Division of the Department of Central Services to make
3 the purchase for the county or solicit bids in the manner described
4 in paragraph 2 of this subsection. Nothing in this paragraph shall
5 prohibit bids from being taken on an item currently on a twelve-
6 month bid list, at any time deemed necessary by the county
7 purchasing agent. Whenever the county purchasing agent deems it
8 necessary to take a bid on an item currently on a twelve-month bid
9 list, the reason for the bid shall be entered into the minutes of
10 the board of county commissioners;

11 2. Bids shall be solicited by mailing a notice to all persons
12 or firms who have made a written request of the county purchasing
13 agent that they be notified of such bid solicitation and to all
14 other persons or firms who might reasonably be expected to submit
15 bids. Notice of solicitation of bids shall also be published one
16 time in a newspaper of general circulation in the county. Notices
17 shall be mailed and published at least ten (10) days prior to the
18 date on which the bids are opened. Proof of the mailing shall be
19 made by the affidavit of the person mailing the request for bids and
20 shall be made a part of the official records of the county
21 purchasing agent. Whenever any prospective supplier or vendor
22 dealing in or listing for sale any particular item or article
23 required to be purchased or acquired by sealed bids fails to enter
24 or offer a sealed bid for three successive bid solicitations, the

1 name of the supplier or vendor may be dropped from the mailing lists
2 of the board of county commissioners;

3 3. The sealed bids received from vendors and the state contract
4 price received from the Purchasing Division of the Department of
5 Central Services shall be given to the county clerk by the county
6 purchasing agent. The county clerk shall forward the sealed bids
7 and state contract price, if any, to the board of county
8 commissioners;

9 4. The board of county commissioners, in an open meeting, shall
10 open the sealed bids and compare them to the state contract price.
11 The board of county commissioners shall select the lowest and best
12 bid based upon the availability of material and transportation cost
13 to the job site within thirty (30) days of the meeting. For any
14 special item not included on the list of commonly used items, the
15 requisitioning official shall review the bids and submit a written
16 recommendation to the board before final approval. The board of
17 county commissioners shall keep a written record of the meeting as
18 required by law, and any time the lowest bid was not considered to
19 be the lowest and best bid, the reason for such conclusion shall be
20 recorded. Whenever the board of county commissioners rejects the
21 written recommendation of the requisitioning official pertaining to
22 a special item, the reasons for the rejection shall be entered in
23 their minutes and stated in a letter to the requisitioning official
24 and county purchasing agent;

1 5. The county purchasing agent shall notify the successful
2 bidders and shall maintain a copy of the notification. The county
3 purchasing agent shall prepare and maintain a vendors list
4 specifying the successful bidders and shall notify each county
5 officer of the list. The county purchasing agent may remove any
6 vendor from such list who refuses to provide goods or services as
7 provided by contract if the removal is authorized by the board of
8 county commissioners. The county purchasing agent may make
9 purchases from the successful bidders for a price at or below the
10 bid price. If a vendor who is the low bidder cannot or will not
11 sell goods or services as required by a county bid contract, the
12 county purchasing agent may purchase from the next low bidder or
13 take quotations as provided in paragraph 6 of this subsection,
14 provided, however, such purchase does not exceed Five Thousand
15 Dollars (\$5,000.00); and

16 6. When bids have been solicited as provided for by law and no
17 bids have been received, the procedure shall be as follows:

18 a. the county purchasing agent shall determine if
19 potential vendors are willing to commit to a firm
20 price for a reduced period of time, and, if such is
21 the case, the bid procedure described in this
22 subsection shall be followed, or

23 b. if vendors are not willing to commit to a firm price
24 for a reduced period, the purchasing agent shall

1 solicit and record at least three quotes of current
2 prices available to the county and authorize the
3 purchase of goods based on the lowest and best quote
4 as it becomes necessary to acquire such goods. The
5 quotes shall be recorded on a form prescribed by the
6 State Auditor and Inspector and shall be attached to
7 the purchase order and filed with the county clerk's
8 copy of the purchase order. Any time the lowest quote
9 was not considered to be the lowest and best quote,
10 the reason for this conclusion shall be recorded by
11 the county purchasing agent and transmitted to the
12 county clerk, or

13 c. if three quotes are not available, a memorandum to the
14 county clerk from the county purchasing agent shall
15 describe the basis upon which a purchase is
16 authorized. The memorandum shall state the reasons
17 why the price for such a purchase is the lowest and
18 best under the circumstances. The county clerk shall
19 then attach the memorandum to the county clerk's copy
20 of the purchase order and file both in the office of
21 the county clerk.

22 C. After selection of a vendor, the procedure for the purchase,
23 lease-purchase, or rental of supplies, materials, and equipment used
24 by a county shall be as follows:

1 1. The county purchasing agent shall prepare a purchase order
2 in quadruplicate and submit it with a copy of the requisition to the
3 county clerk;

4 2. The county clerk shall then encumber the amount stated on
5 the purchase order and assign a sequential number to the purchase
6 order;

7 3. If there is an unencumbered balance in the appropriation
8 made for that purpose by the county excise board, the county clerk
9 shall so certify in the following form:

10 I hereby certify that the amount of this encumbrance has been
11 entered against the designated appropriation accounts and that this
12 encumbrance is within the authorized available balance of said
13 appropriation.

14 Dated this _____ day of _____, 20__.

15 _____

16 County Clerk/Deputy

17 of _____ County.

18 In instances where it is impossible to ascertain the exact amount of
19 the indebtedness sought to be incurred at the time of recording the
20 encumbrance, an estimated amount may be used. No purchase order
21 shall be valid unless signed by the county purchasing agent and
22 certified by the county clerk; and

23 4. The county clerk shall file a copy of the purchase order and
24 return the original purchase order and two copies to the county

1 purchasing agent who shall file a copy, retain the other copy for
2 the county road and bridge inventory officer if the purchase order
3 is for the purchase of equipment, supplies, or materials for the
4 construction or maintenance of roads and bridges, and submit the
5 original purchase order to the receiving officer of the requesting
6 department.

7 D. 1. The procedure for the purchase of supplies, materials,
8 and equipment at public auction or by sealed bid to be used by a
9 county shall be as follows:

10 a. the county purchasing agent shall prepare a purchase
11 order in quadruplicate and submit it with a copy of
12 the requisition to the county clerk,

13 b. the county clerk shall then encumber the amount stated
14 on the purchase order and assign a sequential number
15 to the purchase order,

16 c. if there is an unencumbered balance in the
17 appropriation made for that purpose by the county
18 excise board, the county clerk shall so certify in the
19 following form:

20 I hereby certify that the amount of this encumbrance
21 has been entered against the designated appropriation
22 accounts and that this encumbrance is within the
23 authorized available balance of said appropriation.

24 Dated this _____ day of _____, 20__.

1 _____
2 County Clerk/Deputy
3 of _____ County.

4 In instances where it is impossible to ascertain the
5 exact amount of the indebtedness sought to be incurred
6 at the time of recording the encumbrance, an estimated
7 amount may be used. No purchase order shall be valid
8 unless signed by the county purchasing agent and
9 certified by the county clerk, and

10 d. the county clerk shall file a copy of the purchase
11 order and return the original purchase order and two
12 copies to the county purchasing agent who shall file a
13 copy, retain the other copy for the county road and
14 bridge inventory officer if the purchase order is for
15 the purchase of equipment, supplies, or materials for
16 the construction or maintenance of roads and bridges,
17 and submit the original purchase order to the
18 receiving officer of the requesting department.

19 2. The procedure for the purchase of supplies, materials and
20 equipment at a public auction when the purchase will be made with
21 the proceeds from the sale of county property at the same public
22 auction are as follows:
23
24

- 1 a. the purchasing agent shall cause such items being sold
2 to be appraised in the manner determined in Section
3 421.1 of this title,
- 4 b. the county purchasing agent shall prepare a purchase
5 order in quadruplicate and submit it with a copy of
6 the requisition to the county clerk,
- 7 c. the county clerk shall then encumber the amount of the
8 appraised value and any additional funds obligated by
9 the county on the purchase order and assign a
10 sequential number to the purchase order,
- 11 d. the county clerk shall certify that the amount of the
12 encumbrance is equal to the appraised value of the
13 item being sold plus any additional funds obligated by
14 the county. In effect the recording of the
15 encumbrance is an estimate that is authorized by law.
16 No purchase order shall be valid unless signed by the
17 county purchasing agent and certified by the county
18 clerk,
- 19 e. the county clerk shall file a copy of the purchase
20 order and return the original purchase order and two
21 copies to the county purchasing agent who shall file a
22 copy, retain a copy for the county road and bridge
23 inventory officer if the purchase order is for the
24 purchase of equipment, supplies or materials for the

1 construction or maintenance of roads and bridges, and
2 submit the original purchase order to the receiving
3 officer of the requesting department, and

4 f. a purchase shall not be bid until such time that the
5 appraised item or items are sold. Any item or items
6 purchased shall not exceed the appraised value plus
7 any additional funds obligated by the county or the
8 actual selling price of the item or items, whichever
9 is the lesser amount.

10 E. The procedure for the receipt of items shall be as follows:

11 1. A receiving officer for the requesting department shall be
12 responsible for receiving all items delivered to that department;

13 2. Upon the delivery of an item, the receiving officer shall
14 determine if a purchase order exists for the item being delivered;

15 3. If no such purchase order has been provided, the receiving
16 officer shall refuse delivery of the item;

17 4. If a purchase order is on file, the receiving officer shall
18 obtain a delivery ticket, bill of lading, or other delivery document
19 and compare it with the purchase order. If any item is back
20 ordered, the back order and estimated date of delivery shall be
21 noted in the receiving report;

22 5. The receiving officer shall complete a receiving report in
23 quadruplicate which shall state the quantity and quality of goods
24 delivered. The receiving report form shall be prescribed by the

1 State Auditor and Inspector. The person delivering the goods shall
2 acknowledge the delivery by signature, noting the date and time;

3 6. The receiving officer shall file the original receiving
4 report and submit:

5 a. the original purchase order and a copy of the
6 receiving report to the county purchasing agent, and

7 b. a copy of the receiving report with the delivery
8 documentation to the county clerk;

9 7. The county purchasing agent shall file the original purchase
10 order and a copy of the receiving report;

11 8. Upon receipt of the original receiving report and the
12 delivery documentation, the county clerk shall maintain a file until
13 such time as an invoice is received from the vendor;

14 9. The invoice shall state the name and address of the vendor
15 and must be sufficiently itemized to clearly describe each item
16 purchased, the unit price when applicable, the number or volume of
17 each item purchased, the total price, the total purchase price, and
18 the date of the purchase;

19 10. Upon receipt of an invoice, the county clerk shall compare
20 the following documents:

21 a. requisition,

22 b. purchase order,

23 c. invoice with noncollusion affidavit as required by
24 law,

1 d. receiving report, and

2 e. delivery document.

3 The documents shall be available for public inspection during
4 regular business hours; and

5 11. If the documents conform as to the quantity and quality of
6 the items, the county clerk shall prepare a warrant for payment
7 according to procedures provided for by law.

8 F. The following procedures are for the processing of purchase
9 orders:

10 1. Purchase orders may be allowed and paid at the first meeting
11 of the board of county commissioners ~~after~~ five (5) days ~~have~~
12 ~~elapsed following the date of the filing of the purchase order~~ after
13 presentation for payment, provided that purchase orders for the
14 salaries of the county officers and their full-time assistants,
15 deputies and employees may be allowed and paid immediately after
16 filing;

17 2. The board of county commissioners shall consider the
18 purchase orders so presented and act upon the purchase orders, by
19 allowing in full or in part or by holding for further information or
20 disallowing the same. The disposition of purchase orders shall be
21 indicated by the board of county commissioners, showing the amounts
22 allowed or disallowed and shall be signed by at least two members of
23 the board of county commissioners. Any claim held over for further
24 information shall be acted upon by allowing or disallowing same at

1 any future meeting of the board held within seventy-five (75) days
2 from the date of filing of the purchase order. Any purchase order
3 not acted upon within the seventy-five (75) days from the date of
4 filing shall be deemed to have been disallowed, but such
5 disallowance shall not prevent the refiling of the purchase order at
6 the proper time; and

7 3. Whenever any allowance, either in whole or in part, is made
8 upon any purchase order presented to the board of county
9 commissioners and is accepted by the person making the claim, such
10 allowance shall be a full settlement of the entire purchase order
11 and provided that the cashing of warrant shall be considered as
12 acceptance by the claimant.

13 G. The procedure upon consumption or disposal of supplies,
14 materials, or equipment shall be as follows:

15 1. For consumable road or bridge items or materials, a monthly
16 report of the road and bridge projects completed during such period
17 shall be prepared and kept on file by the consuming department. The
18 report shall contain a record of the date, the place, and the
19 purpose for the use of the road or bridge items or materials. For
20 purposes of identifying county bridges, the board of county
21 commissioners shall number each bridge subject to its jurisdiction;
22 and

23 2. For disposal of all equipment which originally cost more
24 than Two Hundred Fifty Dollars (\$250.00), resolution of disposal

1 shall be submitted by the officer on a form prescribed by the State
2 Auditor and Inspector's Office to the board of county commissioners.
3 The approval of the resolution of disposal shall be entered into the
4 minutes of the board.

5 H. Inventory forms and reports shall be retained for not less
6 than two (2) years after all audit requirements for the state and
7 federal government have been fulfilled and after any pending
8 litigation involving the forms and reports has been resolved.

9 I. The procedures provided for in this section shall not apply
10 when a county officer certifies that an emergency exists requiring
11 an immediate expenditure of funds. Such an expenditure of funds
12 shall not exceed Five Thousand Dollars (\$5,000.00). The county
13 officer shall give the county purchasing agent a written explanation
14 of the emergency. The county purchasing agent shall attach the
15 written explanation to the purchase order. The purchases shall be
16 paid by attaching a properly itemized invoice, as described in this
17 section, to a purchase order which has been prepared by the county
18 purchasing agent and submitting them to the county clerk for filing,
19 encumbering, and consideration for payment by the board of county
20 commissioners.

21 SECTION 6. AMENDATORY 42 O.S. 2001, Section 147.1, as
22 amended by Section 4, Chapter 184, O.S.L. 2003 (42 O.S. Supp. 2006,
23 Section 147.1), is amended to read as follows:

24

1 Section 147.1 Any property owner or other interested party,
2 including but not limited to mortgagees, contractors, subcontractors
3 and others against whom a lien claim is filed under the provisions
4 of the law relating to mechanics' and materialmen's liens, may at
5 any time discharge the lien by depositing with the county clerk in
6 whose office the lien claim has been filed either: An amount of
7 money equal to one hundred twenty-five percent (125%) of the lien
8 claim amount; or a corporate surety bond with a penal amount equal
9 to one hundred twenty-five percent (125%) of the lien claim amount.
10 Within three (3) business days after the deposit of money or bond is
11 made, the county clerk shall serve upon the lien claimant, at the
12 address shown on the lien claim, written notice setting forth: The
13 number of the lien claim; the name of the lien claimant; the name of
14 the property owner; the name of the alleged debtor, if someone other
15 than the property owner; the property description shown on the lien
16 claim; and the amount of cash deposited or, if a bond is filed, the
17 names of the principal and surety and the bond penalty. The party
18 seeking to discharge the lien shall prepare and deliver the notice
19 to the county clerk and pay a fee ~~of Five Dollars (\$5.00) to cover~~
20 ~~the cost of filing and mailing~~ in accordance with Section 32 of
21 Title 28 of the Oklahoma Statutes. An abbreviated notice may be
22 used if the same refers to and encloses a copy of the lien claim and
23 either a copy of the cash receipt issued by the county clerk or a
24 copy of the bond with the clerk's filing stamp thereon. The notice

1 shall be mailed by registered or certified mail at the option of the
2 county clerk.

3 If cash is deposited, the county clerk shall immediately show
4 the lien released of record. If a bond is deposited, the lien
5 claimant shall have ten (10) days after the notice is mailed within
6 which to file a written objection with the county clerk. If a
7 written objection is not timely filed the county clerk shall
8 immediately show the lien released of record. If an objection is
9 timely made, the county clerk shall set a hearing within ten (10)
10 days thereafter and notify by ordinary mail both the lien claimant
11 and the party making the deposit of the date and time thereof. The
12 only grounds for objection shall be that: The surety is not
13 authorized to transact business in this state; the bond is not
14 properly signed; the penal amount is less than one hundred
15 twenty-five percent (125%) of the claim; the power of attorney of
16 the surety's attorney-in-fact does not authorize the execution;
17 there is no power of attorney attached if the bond is executed by
18 anyone other than the surety's president and attested by its
19 secretary; or a cease and desist order has been issued against the
20 surety either by the Insurance Commissioner or a court of competent
21 jurisdiction. Within two (2) business days following the hearing
22 the county clerk shall either sustain or overrule the objections and
23 notify the parties of the county clerk's ruling by ordinary mail.
24 If the objections are sustained, the ruling of the county clerk

1 shall be conclusive for lien release purposes unless appealed within
2 ten (10) days to the district court. If the objections are
3 overruled, the county clerk shall immediately show the lien released
4 of record.

5 The bond shall: Name the lien claimant as obligee and the party
6 seeking the release as principal; be executed by both the principal
7 and the surety; have a proper power of attorney attached if executed
8 by an attorney-in-fact; be executed by a corporate surety authorized
9 to transact business in this state; and be conditioned that the
10 principal and surety will pay the full amount of the claim as
11 established in any appropriate court proceeding, plus any court
12 costs and attorney's fees awarded the lien claimant, but in no event
13 shall the liability of the principal or surety under the bond exceed
14 the bond penalty. The preceding clause shall not limit the common
15 law liability of the party who created the indebtedness upon which
16 the lien claim is based. The conditions of any bond filed pursuant
17 to this section shall be deemed to comply with the requirements
18 hereof, regardless of the language or limitations set forth therein,
19 if both the principal and surety intend that the bond be filed to
20 secure a lien release under this section.

21 The cash deposit or bond, as the case may be, shall stand in
22 lieu of the released lien, and the lien claimant must proceed
23 against the substituted security in the same time and manner as is
24 required for foreclosure of a lien claim. The cash deposit or bond

1 shall stand liable for such principal, interest, court costs and
2 attorney's fees to the extent they could be awarded in a lien
3 foreclosure proceeding.

4 The only proper parties to an action against the substituted
5 security are: The party making the cash deposit; the bond principal
6 and surety; the party primarily liable for the indebtedness giving
7 rise to the lien claim; and anyone else who may be liable to the
8 lien claimant for the same indebtedness. The party making the cash
9 deposit and the bond principal and surety are necessary parties to
10 an action against the substituted security, and by making a deposit
11 or filing a bond the parties subject themselves to personal
12 jurisdiction in the court where the action is properly filed and may
13 be served with process as in other cases.

14 If the lien claimant fails to timely file a foreclosure action,
15 upon application of the party making the deposit or filing the bond
16 and the payment of a fee of Ten Dollars (\$10.00), the county clerk
17 shall return the cash to the party making the deposit or
18 appropriately note on the bond that the same has been released. The
19 clerk shall not incur liability to any lien claimant for an
20 inadvertent release of cash or bond. At the end of ten (10) years
21 and after the county clerk has attempted written notification to the
22 lien claimant at the address shown on the lien claim, if no
23 foreclosure has been commenced by the lien claimant or such money
24 has not been withdrawn upon application of the depositing party, the

1 cash deposit plus all accrued interest shall be forfeited to the
2 county general fund.

3 Nothing contained in this section shall preclude the lien
4 claimant and other interested parties from entering into agreements
5 for the substitution of a different form of security in lieu of the
6 lien claim.

7 The county clerk shall invest the deposited cash in the manner
8 provided for county treasurers in Section 348.1 of Title 62 of the
9 Oklahoma Statutes. Any interest earned thereon shall become a part
10 of the deposit and be either returned to the party making the
11 deposit, if no action is filed, or paid in accordance with any final
12 judgment rendered by the court in the action against the substituted
13 security. If a district court judgment adverse to the depositing
14 party is entered, in setting the amount of supersedeas bond the
15 court shall take into consideration the existing cash deposit or
16 bond.

17 SECTION 7. This act shall become effective November 1, 2007.

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