

THE HOUSE OF REPRESENTATIVES  
Monday, February 12, 2007

Committee Substitute for  
House Bill No. 1432

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1432 - By: HILLIARD of the House and LAUGHLIN of the Senate.

An Act relating to counties and county officers; amending 11 O.S. 2001, Section 41-108, which relates to requirements for plat recordings; modifying specifications; amending 19 O.S. 2001, Section 155.2, which relates to destruction of records; specifying standards for destruction of certain records; amending 19 O.S. 2001, Section 347, which relates to county fiscal matters; prohibiting certain acts; amending 19 O.S. 2001, Section 421.2, which relates to disposition of certain property; modifying entities to whom property may be transferred; amending 19 O.S. 2001, Sections 1501, as last amended by Section 2, Chapter 356, O.S.L. 2005 and 1505, as amended by Section 6, Chapter 447, O.S.L. 2004 (19 O.S. Supp. 2006, Sections 1501 and 1505), which relate to county purchasing procedures; modifying the purchasing authority of the county purchasing agent; modifying procedures for processing purchase orders; 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 liens; modifying certain fee; and providing an effective date.

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

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

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

5 1. The dimensions of the plat shall be twenty-four (24) by thirty-six (36) inches or  
6 shall be a size that can be properly and conveniently folded to these dimensions and shall

1 be drawn to a minimum scale of one hundred (100) feet to the inch; except that plats in  
2 which all lots contain a net area in excess of forty thousand (40,000) square feet, the plat  
3 may be drawn to a scale of two hundred (200) feet to the inch;

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

7 3. The original tracing of each plat and two prints and a reduced copy in the  
8 dimensions of eight and one-half (8 1/2) inches by eleven (11) inches thereof shall be  
9 presented for recording;

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

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

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

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

1 Section 155.2 A. The county clerk in each county in Oklahoma is hereby authorized  
2 each year to destroy the following workbooks, reports and transient and subsidiary  
3 records that have been on file or stored in the office the period of time specifically  
4 provided herein.:

5 1. After the expiration of one (1) year:

- 6 a. unused blank forms printed for fiscal year series, and
- 7 b. blank forms obsolete by change of law;

8 2. After the expiration of five (5) years:

- 9 a. financing statements, except as otherwise provided by Article 9 of Title  
10 12A of the Oklahoma Statutes or other statute, chattel mortgages, bills  
11 of sale, releases and renewals thereof, after the same ceases to be  
12 effective,
- 13 b. all county claims, claim calendars,
- 14 c. chattel mortgage indexes,
- 15 d. appropriation ledgers, warrant ledgers, financial ledgers,
- 16 e. requisitions,
- 17 f. upon retirement, discharge, or termination of employment, loyalty oath  
18 of said employee or officer,
- 19 g. certificates of error,
- 20 h. copies of reports and remittances, deposits and receipts,
- 21 i. monthly reports to the State Auditor and Inspector and reports to  
22 other officers and warrant issues,

- 1           j.       daily reports including daily report jacket and all contents therein,  
2           k.       physician liens, insurance agent's liens, hospital liens, thresher and  
3                combiners liens, mechanic and materialmans liens, oil and gas liens,  
4                vendor liens, banker liens, mining liens, district attorney liens, labor  
5                liens, and personal property liens,  
6           l.       reports, checks, purchase orders and other bookkeeping records,  
7           m.       all tax protests, evidences, letters of orders of the board, letters of  
8                increased assessment, correspondence, reports, docket books, lists of  
9                parcels under protest, agendas, and  
10          n.       records pertaining to the Open Meetings Act and Open Records Act;  
11          3. After the expiration of seven (7) years after the final settlement following appeal  
12 to district court, all tax protest records;  
13          4. After the expiration of seven (7) years, balance sheets, deposit slips, tax records,  
14 W-2's and investment authorization slips for the retirement system; ~~and~~  
15          5. After the expiration of ten (10) years:  
16              a.       all tax rolls and tax roll adjustments, and  
17              b.       all special assessment rolls; and  
18          6. County school records as transferred from the county superintendent's office may  
19 be destroyed in accordance with State Department of Education standards.  
20          B. The State Library may be given any records that would otherwise be destroyed.

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

1 Section 347. A. With respect to counties seeking cash-flow management during any  
2 fiscal year, any county may issue and deliver certificates of indebtedness bearing a stated  
3 maturity date for the purpose of participating in a short-term cash management program  
4 pursuant to the provisions of Section 177.2 of Title 60 of the Oklahoma Statutes to fund  
5 the estimated costs of operations, capital expenditures or other lawful costs of the county,  
6 or any of its public trusts as operator of its property, for the current fiscal year. The  
7 proceeds of certificates of indebtedness shall be set aside in a separate account and used  
8 only for the purpose of meeting expenditures and obligations which would otherwise be  
9 lawfully payable from the revenue certified by the county excise board. As proceeds from  
10 the certificates are used to pay such lawful expenditures and obligations, the financial  
11 records of the county shall reflect the amounts of these obligations paid with such  
12 proceeds so that a like amount of revenue collected and available to the county may be  
13 used to repay the certificates of indebtedness, in whole or in part. The State Auditor and  
14 Inspector shall adopt uniform accounting procedures for use by the counties to ensure  
15 that the issuance of certificates of indebtedness and the use of the proceeds derived from  
16 these certificates will be documented and will not result in a district overspending its  
17 authorized budget. All certificates of indebtedness shall be issued, delivered and  
18 registered for payment in the specific manner designated by the State Auditor and  
19 Inspector; provided, any such certificates of indebtedness shall be made payable on any  
20 date within the then current fiscal year and may be purchased for value through the  
21 funding of uncollateralized investments made for the benefit of and on behalf of the  
22 county. Short-term cash management programs of any county may lawfully provide for

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

11 B. It shall be unlawful for the board of county commissioners to issue any  
12 certificate of indebtedness, in any form, in payment of or representing or acknowledging  
13 any account, claim, or indebtedness against the county, or to make any contracts for or  
14 incur any indebtedness against the county in excess of the amount then unexpended and  
15 unencumbered of the sum appropriated for the specific item of estimated needs for such  
16 purpose theretofore made, submitted, and approved or authorized for such purpose by a  
17 bond issue. All warrants upon the county treasurer, for a county purpose, shall be issued  
18 upon the order of the board of county commissioners, drawn by the county clerk, signed  
19 by the chairman of the board, and attested by the signature of the county clerk, with the  
20 county seal attached. Each warrant shall designate the fund, department and  
21 appropriation account, and shall further show the nature of the indebtedness  
22 acknowledged by the allowance of the claim so paid.

1        C. Whenever a county officer holding an elective office will not immediately succeed  
2 himself serve a succeeding term in said the same office, it shall be unlawful for the board  
3 of county commissioners, during the first six (6) months of the fiscal year in which said  
4 term of office expires, to approve claims for the operation of said office totaling in excess  
5 of one-half (1/2) the amount allocated for the operation of said office during said fiscal  
6 year, unless approval in writing is obtained from the county excise board, and any claim  
7 in excess thereof and any warrant issued pursuant thereto shall be null and void.

8        D. It shall also be unlawful for a county officer holding elective office who will not  
9 immediately serve a succeeding term in the same office to make any changes or  
10 alterations in the licensing or source code of computer software currently being used.

11        SECTION 4. AMENDATORY 19 O.S. 2001, Section 421.2, is amended to read  
12 as follows:

13        Section 421.2 A unanimous vote of the board of county commissioners may transfer  
14 any machinery, equipment or vehicle belonging to the county, which is deemed by the  
15 board to be surplus, to a political subdivision of the state ~~within that county~~ which is in  
16 need of such machinery, equipment or vehicle to benefit a significant part of the public  
17 served by the county; provided, however, one of the county commissioners voting in the  
18 majority is the county commissioner from whose district the subject property is to be  
19 transferred. Upon such transfer, the subject property shall be removed from the  
20 inventory of the county. The board of county commissioners may not deem any property  
21 to be surplus during the period of time beginning thirty (30) days before the filing period  
22 for any election of a county commissioner and ending the day after a county

1 commissioner is sworn in as such. When the political subdivision receiving such property  
2 declares same to be surplus, the governing body shall give written notice to the county of  
3 its intent to transfer such property back to the county. The board of county  
4 commissioners shall have up to fifteen (15) days from the date of receipt of such notice to  
5 either accept or reject the property. The political subdivision shall transfer such property  
6 back to the county only if the board of county commissioners agrees to accept the  
7 property or the board fails to respond within the fifteen-day time period.

8 SECTION 5. AMENDATORY 19 O.S. 2001, Section 1501, as last amended by  
9 Section 2, Chapter 356, O.S.L. 2005 (19 O.S. Supp. 2006, Section 1501), is amended to  
10 read as follows:

11 Section 1501. A. The county purchasing agent:

12 1. Shall, within the amount of the unencumbered balance, make all purchases that  
13 are paid from county funds for the various institutions, departments, officers, and  
14 employees of the county, except at public auctions and as otherwise provided for by law;

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

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

20 a. when the purchase does not exceed Ten Thousand Dollars (\$10,000.00).

21 All purchases made pursuant to this subparagraph shall be by a single  
22 purchase order. Splitting purchase orders which would result in

1 paying an amount in excess of the limitations specified in this  
2 subparagraph is expressly prohibited. Any person convicted of  
3 violating the provisions of this subparagraph shall be guilty of a  
4 misdemeanor and such person shall forfeit the person's position or  
5 office,  
6 b. when the total payments of a rental or lease-purchase agreement do  
7 not exceed ~~Five Thousand Dollars (\$5,000.00)~~ the current bid limit as  
8 established in subparagraph a of this paragraph,  
9 c. when articles and items are covered by single source contracts,  
10 d. service or maintenance contracts on equipment or machinery which  
11 are entered into at the time of the purchase of the equipment or  
12 machinery,  
13 e. purchases made pursuant to a blanket purchase order as provided for  
14 in Section 310.8 of Title 62 of the Oklahoma Statutes,  
15 f. when materials for road or bridge improvements do not exceed Three  
16 Dollars (\$3.00) per yard or per ton,  
17 g. purchases of fuel if the county purchasing agent obtains telephone  
18 quotes from at least three vendors prior to the purchase and the lowest  
19 and best quote is selected. Documentation of these quotes shall be  
20 recorded in the permanent records of the clerk,

- 1           h.     purchases of tools, apparatus, machinery or equipment from a state  
2                     agency or a political subdivision of the state as provided for in  
3                     subsection C of Section 421.1 of this title,
- 4           i.     purchases of food for prisoners incarcerated in the county jail;  
5                     provided, in counties having a population in excess of one hundred  
6                     thousand (100,000) persons, the county purchasing agent shall follow  
7                     bidding procedures as provided by law unless the county purchasing  
8                     agent obtains telephone quotes pursuant to the whole total of food  
9                     items requisitioned prior to the purchase and the lowest and best quote  
10                    is selected. Documentation of these quotes shall be recorded in the  
11                    permanent records of the county clerk,
- 12          j.     when a county solicits bids for the purchase of processed native  
13                    materials for road and bridge improvements, the county may accept all  
14                    bids received, with the lowest and best bid from those accepted to be  
15                    selected at the time of opening of any construction project. The  
16                    selection of the bid shall be based upon availability, bid price, plus  
17                    transportation costs,
- 18          k.     when a vendor has been selected as the lowest and best bidder to  
19                    furnish a particular item or items to the county during a specified time  
20                    period and in the event the vendor is unable to perform, the  
21                    purchasing agent may solicit telephone quotes for the item or items

1 needed from the list of qualified bidders and provide for the purchase  
2 of the items at the lowest and best quote available,

3 l. when considering the purchase of an item or items from the state bid  
4 list as provided by the Department of Central Services or the General  
5 Services Administration, if the same exact item is available from a  
6 local vendor at or below the price listed on the state bid list or the  
7 General Services Administration list, the item may be obtained from  
8 the vendor,

9 m. any item or items bid by the Department of Central Services which  
10 may be purchased by the county, provided the vendor is willing to  
11 supply the item or items to the county at the bid price,

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

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

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

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

- 1 (3) all vendors on the list of qualified bidders of each participating  
2 county who offer the item or items for sale received notice of the  
3 bid request, and
- 4 (4) the vendor awarded the bid is willing and able to provide the  
5 item or items at the bid price,
- 6 p. counties may participate in a nationwide purchasing program  
7 sponsored by the national association representing counties, or
- 8 q. when the Governor declares an emergency in a county, the district  
9 attorney of that county shall have the authority to temporarily waive  
10 competitive bidding procedures for purchases that may expedite a  
11 response to the emergency situation. This temporary waiver shall be  
12 in addition to any powers exercised pursuant to Section 683.11 of Title  
13 63 of the Oklahoma Statutes.

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

18 4. Shall not furnish any supplies, materials, equipment, or other articles, except  
19 upon receipt of a requisition signed by a county officer. Written requisitions will not be  
20 required for blanket purchase orders as provided for in Section 310.8 of Title 62 of the  
21 Oklahoma Statutes. Each county officer may designate not more than two employees  
22 who also shall be authorized to sign requisitions in the absence of the county officer. A

1 written designation of the employees shall be filed with the county clerk and shall be  
2 entered in the minutes of the board of county commissioners;

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

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

16 B. Each department of county government needing repairs to equipment,  
17 machinery or vehicles shall make estimates and requisition a purchase order from the  
18 county purchasing agent for repairs not in excess of Two Thousand Five Hundred Dollars  
19 (\$2,500.00). Repairs in excess of Two Thousand Five Hundred Dollars (\$2,500.00), shall  
20 be submitted on a blanket purchase order as provided in Section 310.8 of Title 62 of the  
21 Oklahoma Statutes.

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

4 Section 1505. The following procedures shall be used by counties for the  
5 requisition, purchase, lease-purchase, rental, and receipt of supplies, materials, and  
6 equipment for the maintenance, operation, and capital expenditures of county  
7 government unless otherwise provided for by law.

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

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

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

14 3. Upon receipt of the requisition, the county purchasing agent, within two (2)  
15 working days, shall begin the bidding and purchasing process as provided for in this  
16 section. Nothing in this section shall prohibit the transfer of supplies, materials, or  
17 equipment between county departments upon a written agreement between county  
18 officers.

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

21 1. The county purchasing agent shall request written recommendations from all  
22 county officers pertaining to commonly used supplies, materials, and equipment. From

1 such recommendations and available requisition, purchase, or inventory records, the  
2 county purchasing agent shall prepare a list of items commonly used by county officers.  
3 The county purchasing agent shall request from the Purchasing Division of the  
4 Department of Central Services all contracts quoting the price the state is paying for the  
5 items. The county purchasing agent shall either request the Purchasing Division of the  
6 Department of Central Services to make the purchase for the county or solicit bids for  
7 unit prices on the items for periods of not to exceed twelve (12) months in the manner  
8 described in paragraph 2 of this subsection. If the county purchasing agent receives a  
9 requisition for an item for which the county purchasing agent does not have a current  
10 bid, the county purchasing agent shall request from the Purchasing Division of the  
11 Department of Central Services all contracts quoting the price the state is paying for the  
12 item. The county purchasing agent shall either request the Purchasing Division of the  
13 Department of Central Services to make the purchase for the county or solicit bids in the  
14 manner described in paragraph 2 of this subsection. Nothing in this paragraph shall  
15 prohibit bids from being taken on an item currently on a twelve-month bid list, at any  
16 time deemed necessary by the county purchasing agent. Whenever the county  
17 purchasing agent deems it necessary to take a bid on an item currently on a twelve-  
18 month bid list, the reason for the bid shall be entered into the minutes of the board of  
19 county commissioners;

20 2. Bids shall be solicited by mailing a notice to all persons or firms who have made  
21 a written request of the county purchasing agent that they be notified of such bid  
22 solicitation and to all other persons or firms who might reasonably be expected to submit

1 bids. Notice of solicitation of bids shall also be published one time in a newspaper of  
2 general circulation in the county. Notices shall be mailed and published at least ten (10)  
3 days prior to the date on which the bids are opened. Proof of the mailing shall be made  
4 by the affidavit of the person mailing the request for bids and shall be made a part of the  
5 official records of the county purchasing agent. Whenever any prospective supplier or  
6 vendor dealing in or listing for sale any particular item or article required to be  
7 purchased or acquired by sealed bids fails to enter or offer a sealed bid for three  
8 successive bid solicitations, the name of the supplier or vendor may be dropped from the  
9 mailing lists of the board of county commissioners;

10 3. The sealed bids received from vendors and the state contract price received from  
11 the Purchasing Division of the Department of Central Services shall be given to the  
12 county clerk by the county purchasing agent. The county clerk shall forward the sealed  
13 bids and state contract price, if any, to the board of county commissioners;

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

1 commissioners rejects the written recommendation of the requisitioning official  
2 pertaining to a special item, the reasons for the rejection shall be entered in their  
3 minutes and stated in a letter to the requisitioning official and county purchasing agent;

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

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

- 17 a. the county purchasing agent shall determine if potential vendors are  
18 willing to commit to a firm price for a reduced period of time, and, if  
19 such is the case, the bid procedure described in this subsection shall be  
20 followed, or  
21 b. if vendors are not willing to commit to a firm price for a reduced  
22 period, the purchasing agent shall solicit and record at least three

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

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

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

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

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



- 1 a. the county purchasing agent shall prepare a purchase order in
- 2 quadruplicate and submit it with a copy of the requisition to the county
- 3 clerk,
- 4 b. the county clerk shall then encumber the amount stated on the
- 5 purchase order and assign a sequential number to the purchase order,
- 6 c. if there is an unencumbered balance in the appropriation made for
- 7 that purpose by the county excise board, the county clerk shall so
- 8 certify in the following form:

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

13 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

14 \_\_\_\_\_

15 County Clerk/Deputy  
16 of \_\_\_\_\_ County.

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

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

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

8           2. The procedure for the purchase of supplies, materials and equipment at a public  
9     auction when the purchase will be made with the proceeds from the sale of county  
10    property at the same public auction are as follows:

- 11           a.     the purchasing agent shall cause such items being sold to be appraised  
12                     in the manner determined in Section 421.1 of this title,  
13           b.     the county purchasing agent shall prepare a purchase order in  
14                     quadruplicate and submit it with a copy of the requisition to the county  
15                     clerk,  
16           c.     the county clerk shall then encumber the amount of the appraised  
17                     value and any additional funds obligated by the county on the  
18                     purchase order and assign a sequential number to the purchase order,  
19           d.     the county clerk shall certify that the amount of the encumbrance is  
20                     equal to the appraised value of the item being sold plus any additional  
21                     funds obligated by the county. In effect the recording of the  
22                     encumbrance is an estimate that is authorized by law. No purchase

1 order shall be valid unless signed by the county purchasing agent and  
2 certified by the county clerk,  
3 e. the county clerk shall file a copy of the purchase order and return the  
4 original purchase order and two copies to the county purchasing agent  
5 who shall file a copy, retain a copy for the county road and bridge  
6 inventory officer if the purchase order is for the purchase of equipment,  
7 supplies or materials for the construction or maintenance of roads and  
8 bridges, and submit the original purchase order to the receiving officer  
9 of the requesting department, and  
10 f. a purchase shall not be bid until such time that the appraised item or  
11 items are sold. Any item or items purchased shall not exceed the  
12 appraised value plus any additional funds obligated by the county or  
13 the actual selling price of the item or items, whichever is the lesser  
14 amount.

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

- 16 1. A receiving officer for the requesting department shall be responsible for  
17 receiving all items delivered to that department;
- 18 2. Upon the delivery of an item, the receiving officer shall determine if a purchase  
19 order exists for the item being delivered;
- 20 3. If no such purchase order has been provided, the receiving officer shall refuse  
21 delivery of the item;

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

5           5. The receiving officer shall complete a receiving report in quadruplicate which  
6 shall state the quantity and quality of goods delivered. The receiving report form shall  
7 be prescribed by the State Auditor and Inspector. The person delivering the goods shall  
8 acknowledge the delivery by signature, noting the date and time;

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

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

12           b.       a copy of the receiving report with the delivery documentation to the  
13                    county clerk;

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

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

19           9. The invoice shall state the name and address of the vendor and must be  
20 sufficiently itemized to clearly describe each item purchased, the unit price when  
21 applicable, the number or volume of each item purchased, the total price, the total  
22 purchase price, and the date of the purchase;

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

- 3           a.     requisition,
- 4           b.     purchase order,
- 5           c.     invoice with noncollusion affidavit as required by law,
- 6           d.     receiving report, and
- 7           e.     delivery document.

8 The documents shall be available for public inspection during regular business hours;  
9 and

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

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

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

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

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

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

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

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

20 2. For disposal of all equipment which originally cost more than Two Hundred Fifty  
21 Dollars (\$250.00), resolution of disposal shall be submitted by the officer on a form  
22 prescribed by the State Auditor and Inspector's Office to the board of county

1 commissioners. The approval of the resolution of disposal shall be entered into the  
2 minutes of the board.

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

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

15 SECTION 7. AMENDATORY 42 O.S. 2001, Section 147.1, as amended by  
16 Section 4, Chapter 184, O.S.L. 2003 (42 O.S. Supp. 2006, Section 147.1), is amended to  
17 read as follows:

18 Section 147.1 Any property owner or other interested party, including but not  
19 limited to mortgagees, contractors, subcontractors and others against whom a lien claim  
20 is filed under the provisions of the law relating to mechanics' and materialmen's liens,  
21 may at any time discharge the lien by depositing with the county clerk in whose office  
22 the lien claim has been filed either: An amount of money equal to one hundred

1 twenty-five percent (125%) of the lien claim amount; or a corporate surety bond with a  
2 penal amount equal to one hundred twenty-five percent (125%) of the lien claim amount.  
3 Within three (3) business days after the deposit of money or bond is made, the county  
4 clerk shall serve upon the lien claimant, at the address shown on the lien claim, written  
5 notice setting forth: The number of the lien claim; the name of the lien claimant; the  
6 name of the property owner; the name of the alleged debtor, if someone other than the  
7 property owner; the property description shown on the lien claim; and the amount of cash  
8 deposited or, if a bond is filed, the names of the principal and surety and the bond  
9 penalty. The party seeking to discharge the lien shall prepare and deliver the notice to  
10 the county clerk and pay a fee of Five Dollars (\$5.00) to cover the cost of filing and  
11 ~~mailing~~ in accordance with Section 32 of Title 28 of the Oklahoma Statutes. An  
12 abbreviated notice may be used if the same refers to and encloses a copy of the lien claim  
13 and either a copy of the cash receipt issued by the county clerk or a copy of the bond with  
14 the clerk's filing stamp thereon. The notice shall be mailed by registered or certified mail  
15 at the option of the county clerk.

16 If cash is deposited, the county clerk shall immediately show the lien released of  
17 record. If a bond is deposited, the lien claimant shall have ten (10) days after the notice  
18 is mailed within which to file a written objection with the county clerk. If a written  
19 objection is not timely filed the county clerk shall immediately show the lien released of  
20 record. If an objection is timely made, the county clerk shall set a hearing within ten (10)  
21 days thereafter and notify by ordinary mail both the lien claimant and the party making  
22 the deposit of the date and time thereof. The only grounds for objection shall be that:

1 The surety is not authorized to transact business in this state; the bond is not properly  
2 signed; the penal amount is less than one hundred twenty-five percent (125%) of the  
3 claim; the power of attorney of the surety's attorney-in-fact does not authorize the  
4 execution; there is no power of attorney attached if the bond is executed by anyone other  
5 than the surety's president and attested by its secretary; or a cease and desist order has  
6 been issued against the surety either by the Insurance Commissioner or a court of  
7 competent jurisdiction. Within two (2) business days following the hearing the county  
8 clerk shall either sustain or overrule the objections and notify the parties of the county  
9 clerk's ruling by ordinary mail. If the objections are sustained, the ruling of the county  
10 clerk shall be conclusive for lien release purposes unless appealed within ten (10) days to  
11 the district court. If the objections are overruled, the county clerk shall immediately  
12 show the lien released of record.

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

1 hereof, regardless of the language or limitations set forth therein, if both the principal  
2 and surety intend that the bond be filed to secure a lien release under this section.

3 The cash deposit or bond, as the case may be, shall stand in lieu of the released lien,  
4 and the lien claimant must proceed against the substituted security in the same time and  
5 manner as is required for foreclosure of a lien claim. The cash deposit or bond shall  
6 stand liable for such principal, interest, court costs and ~~attorney's~~ attorney fees to the  
7 extent they could be awarded in a lien foreclosure proceeding.

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

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

1 by the lien claimant or such money has not been withdrawn upon application of the  
2 depositing party, the cash deposit plus all accrued interest shall be forfeited to the county  
3 general fund.

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

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

14 SECTION 8. This act shall become effective November 1, 2007.

15 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT AND  
16 TRANSPORTATION, dated 02-08-07 - DO PASS, As Amended and Coauthored.