

EHB 1432

1 THE STATE SENATE
2 Tuesday, March 27, 2007

3 ENGROSSED

4 House Bill No. 1432

5 ENGROSSED HOUSE BILL NO. 1432 - By: HILLIARD of the House and
6 LAUGHLIN of the Senate.

7 An Act relating to counties and county officers; amending 11
8 O.S. 2001, Section 41-108, which relates to requirements for
9 plat recordings; modifying specifications; amending 19 O.S.
10 2001, Section 155.2, which relates to destruction of
11 records; specifying standards for destruction of certain
12 records; amending 19 O.S. 2001, Section 347, which relates
13 to county fiscal matters; prohibiting certain acts; amending
14 19 O.S. 2001, Section 421.2, which relates to disposition of
15 certain property; modifying entities to whom property may be
16 transferred; amending 19 O.S. 2001, Sections 1501, as last
17 amended by Section 2, Chapter 356, O.S.L. 2005 and 1505, as
18 amended by Section 6, Chapter 447, O.S.L. 2004 (19 O.S.
19 Supp. 2006, Sections 1501 and 1505), which relate to county
20 purchasing procedures; modifying the purchasing authority of
21 the county purchasing agent; modifying procedures for
22 processing purchase orders; amending 42 O.S. 2001, Section
23 147.1, as amended by Section 4, Chapter 184, O.S.L. 2003 (42
24 O.S. Supp. 2006, Section 147.1), which relates to liens;
25 modifying certain fee; and providing an effective date.

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 e. requisitions,
- 2 f. upon retirement, discharge, or termination of
- 3 employment, loyalty oath of said employee or officer,
- 4 g. certificates of error,
- 5 h. copies of reports and remittances, deposits and
- 6 receipts,
- 7 i. monthly reports to the State Auditor and Inspector and
- 8 reports to other officers and warrant issues,
- 9 j. daily reports including daily report jacket and all
- 10 contents therein,
- 11 k. physician liens, insurance agent's liens, hospital
- 12 liens, thresher and combiners liens, mechanic and
- 13 materialmans liens, oil and gas liens, vendor liens,
- 14 banker liens, mining liens, district attorney liens,
- 15 labor liens, and personal property liens,
- 16 l. reports, checks, purchase orders and other bookkeeping
- 17 records,
- 18 m. all tax protests, evidences, letters of orders of the
- 19 board, letters of increased assessment,
- 20 correspondence, reports, docket books, lists of
- 21 parcels under protest, agendas, and
- 22 n. records pertaining to the Open Meetings Act and Open
- 23 Records Act;

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

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

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

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

9 b. all special assessment rolls; and

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

13 B. The State Library may be given any records that would
14 otherwise be destroyed.

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

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

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

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

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

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

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

22 Section 421.2 A unanimous vote of the board of county
23 commissioners may transfer any machinery, equipment or vehicle

1 belonging to the county, which is deemed by the board to be surplus,
2 to a political subdivision of the state ~~within that county~~ which is
3 in need of such machinery, equipment or vehicle to benefit a
4 significant part of the public served by the county; provided,
5 however, one of the county commissioners voting in the majority is
6 the county commissioner from whose district the subject property is
7 to be transferred. Upon such transfer, the subject property shall
8 be removed from the inventory of the county. The board of county
9 commissioners may not deem any property to be surplus during the
10 period of time beginning thirty (30) days before the filing period
11 for any election of a county commissioner and ending the day after a
12 county commissioner is sworn in as such. When the political
13 subdivision receiving such property declares same to be surplus, the
14 governing body shall give written notice to the county of its intent
15 to transfer such property back to the county. The board of county
16 commissioners shall have up to fifteen (15) days from the date of
17 receipt of such notice to either accept or reject the property. The
18 political subdivision shall transfer such property back to the
19 county only if the board of county commissioners agrees to accept
20 the property or the board fails to respond within the fifteen-day
21 time period.

1 SECTION 5. AMENDATORY 19 O.S. 2001, Section 1501, as
2 last amended by Section 2, Chapter 356, O.S.L. 2005 (19 O.S. Supp.
3 2006, Section 1501), is amended to read as follows:

4 Section 1501. A. The county purchasing agent:

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

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

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

15 a. when the purchase does not exceed Ten Thousand Dollars
16 (\$10,000.00). All purchases made pursuant to this
17 subparagraph shall be by a single purchase order.
18 Splitting purchase orders which would result in paying
19 an amount in excess of the limitations specified in
20 this subparagraph is expressly prohibited. Any person
21 convicted of violating the provisions of this
22 subparagraph shall be guilty of a misdemeanor and such
23 person shall forfeit the person's position or office,

- 1 b. when the total payments of a rental or lease-purchase
2 agreement do not exceed ~~Five Thousand Dollars~~
3 ~~(\$5,000.00)~~ the current bid limit as established in
4 subparagraph a of this paragraph,
- 5 c. when articles and items are covered by single source
6 contracts,
- 7 d. service or maintenance contracts on equipment or
8 machinery which are entered into at the time of the
9 purchase of the equipment or machinery,
- 10 e. purchases made pursuant to a blanket purchase order as
11 provided for in Section 310.8 of Title 62 of the
12 Oklahoma Statutes,
- 13 f. when materials for road or bridge improvements do not
14 exceed Three Dollars (\$3.00) per yard or per ton,
- 15 g. purchases of fuel if the county purchasing agent
16 obtains telephone quotes from at least three vendors
17 prior to the purchase and the lowest and best quote is
18 selected. Documentation of these quotes shall be
19 recorded in the permanent records of the clerk,
- 20 h. purchases of tools, apparatus, machinery or equipment
21 from a state agency or a political subdivision of the
22 state as provided for in subsection C of Section 421.1
23 of this title,

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

1 for the purchase of the items at the lowest and best
2 quote available,
3 1. when considering the purchase of an item or items from
4 the state bid list as provided by the Department of
5 Central Services or the General Services
6 Administration, if the same exact item is available
7 from a local vendor at or below the price listed on
8 the state bid list or the General Services
9 Administration list, the item may be obtained from the
10 vendor,
11 m. any item or items bid by the Department of Central
12 Services which may be purchased by the county,
13 provided the vendor is willing to supply the item or
14 items to the county at the bid price,
15 n. when a county obtains proceeds from the sale of its
16 property at a public auction, that county may use
17 those proceeds to acquire items previously identified
18 as needed by the county at the same public auction
19 pursuant to subsection D of Section 1505 of this
20 title,
21 o. when an item or items have been competitively bid by a
22 county, or on behalf of a group of contiguous
23 counties, provided:

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

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

6 4. Shall not furnish any supplies, materials, equipment, or
7 other articles, except upon receipt of a requisition signed by a
8 county officer. Written requisitions will not be required for
9 blanket purchase orders as provided for in Section 310.8 of Title 62
10 of the Oklahoma Statutes. Each county officer may designate not
11 more than two employees who also shall be authorized to sign
12 requisitions in the absence of the county officer. A written
13 designation of the employees shall be filed with the county clerk
14 and shall be entered in the minutes of the board of county
15 commissioners;

16 5. Shall make lease or lease-purchase agreements for road
17 machinery and equipment if the county has adequate funds
18 appropriated during any fiscal year for such purpose and only after
19 following the bidding procedures as provided for in Section 1505 of
20 this title. The term of any lease or lease-purchase agreement
21 authorized pursuant to this paragraph may be for any period up to
22 one (1) year, provided, the term shall not extend beyond the end of
23 any fiscal year, with an option to renew such agreement subject to

1 the requirement that adequate funds are appropriated during the
2 fiscal year by the county for such purpose. The State Auditor and
3 Inspector's office shall be notified by the county of the terms and
4 conditions of a lease or lease-purchase agreement authorized
5 pursuant to this paragraph before any such agreement is made by the
6 county purchasing agent; and

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

9 B. Each department of county government needing repairs to
10 equipment, machinery or vehicles shall make estimates and
11 requisition a purchase order from the county purchasing agent for
12 repairs not in excess of Two Thousand Five Hundred Dollars
13 (\$2,500.00). Repairs in excess of Two Thousand Five Hundred Dollars
14 (\$2,500.00), shall be submitted on a blanket purchase order as
15 provided in Section 310.8 of Title 62 of the Oklahoma Statutes.

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

19 Section 1505. The following procedures shall be used by
20 counties for the requisition, purchase, lease-purchase, rental, and
21 receipt of supplies, materials, and equipment for the maintenance,
22 operation, and capital expenditures of county government unless
23 otherwise provided for by law.

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

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

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

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

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

19 1. The county purchasing agent shall request written
20 recommendations from all county officers pertaining to commonly used
21 supplies, materials, and equipment. From such recommendations and
22 available requisition, purchase, or inventory records, the county
23 purchasing agent shall prepare a list of items commonly used by

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

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

17 3. The sealed bids received from vendors and the state contract
18 price received from the Purchasing Division of the Department of
19 Central Services shall be given to the county clerk by the county
20 purchasing agent. The county clerk shall forward the sealed bids
21 and state contract price, if any, to the board of county
22 commissioners;

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

17 5. The county purchasing agent shall notify the successful
18 bidders and shall maintain a copy of the notification. The county
19 purchasing agent shall prepare and maintain a vendors list
20 specifying the successful bidders and shall notify each county
21 officer of the list. The county purchasing agent may remove any
22 vendor from such list who refuses to provide goods or services as
23 provided by contract if the removal is authorized by the board of

1 county commissioners. The county purchasing agent may make
2 purchases from the successful bidders for a price at or below the
3 bid price. If a vendor who is the low bidder cannot or will not
4 sell goods or services as required by a county bid contract, the
5 county purchasing agent may purchase from the next low bidder or
6 take quotations as provided in paragraph 6 of this subsection,
7 provided, however, such purchase does not exceed Five Thousand
8 Dollars (\$5,000.00); and

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

11 a. the county purchasing agent shall determine if
12 potential vendors are willing to commit to a firm
13 price for a reduced period of time, and, if such is
14 the case, the bid procedure described in this
15 subsection shall be followed, or

16 b. if vendors are not willing to commit to a firm price
17 for a reduced period, the purchasing agent shall
18 solicit and record at least three quotes of current
19 prices available to the county and authorize the
20 purchase of goods based on the lowest and best quote
21 as it becomes necessary to acquire such goods. The
22 quotes shall be recorded on a form prescribed by the
23 State Auditor and Inspector and shall be attached to

1 the purchase order and filed with the county clerk's
2 copy of the purchase order. Any time the lowest quote
3 was not considered to be the lowest and best quote,
4 the reason for this conclusion shall be recorded by
5 the county purchasing agent and transmitted to the
6 county clerk, or

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

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

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

1 is for the purchase of equipment, supplies, or materials for the
2 construction or maintenance of roads and bridges, and submit the
3 original purchase order to the receiving officer of the requesting
4 department.

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

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

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

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

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

23 Dated this _____ day of _____, 20__.

- 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

1 purchase of equipment, supplies or materials for the
2 construction or maintenance of roads and bridges, and
3 submit the original purchase order to the receiving
4 officer of the requesting department, and
5 f. a purchase shall not be bid until such time that the
6 appraised item or items are sold. Any item or items
7 purchased shall not exceed the appraised value plus
8 any additional funds obligated by the county or the
9 actual selling price of the item or items, whichever
10 is the lesser amount.

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

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

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

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

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

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

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

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

10 b. a copy of the receiving report with the delivery
11 documentation to the county clerk;

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

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

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

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

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

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

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

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

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

21 2. The board of county commissioners shall consider the
22 purchase orders so presented and act upon the purchase orders, by
23 allowing in full or in part or by holding for further information or

1 disallowing the same. The disposition of purchase orders shall be
2 indicated by the board of county commissioners, showing the amounts
3 allowed or disallowed and shall be signed by at least two members of
4 the board of county commissioners. Any claim held over for further
5 information shall be acted upon by allowing or disallowing same at
6 any future meeting of the board held within seventy-five (75) days
7 from the date of filing of the purchase order. Any purchase order
8 not acted upon within the seventy-five (75) days from the date of
9 filing shall be deemed to have been disallowed, but such
10 disallowance shall not prevent the refiling of the purchase order at
11 the proper time; and

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

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

20 1. For consumable road or bridge items or materials, a monthly
21 report of the road and bridge projects completed during such period
22 shall be prepared and kept on file by the consuming department. The
23 report shall contain a record of the date, the place, and the

1 purpose for the use of the road or bridge items or materials. For
2 purposes of identifying county bridges, the board of county
3 commissioners shall number each bridge subject to its jurisdiction;
4 and

5 2. For disposal of all equipment which originally cost more
6 than Two Hundred Fifty Dollars (\$250.00), resolution of disposal
7 shall be submitted by the officer on a form prescribed by the State
8 Auditor and Inspector's Office to the board of county commissioners.
9 The approval of the resolution of disposal shall be entered into the
10 minutes of the board.

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

15 I. The procedures provided for in this section shall not apply
16 when a county officer certifies that an emergency exists requiring
17 an immediate expenditure of funds. Such an expenditure of funds
18 shall not exceed Five Thousand Dollars (\$5,000.00). The county
19 officer shall give the county purchasing agent a written explanation
20 of the emergency. The county purchasing agent shall attach the
21 written explanation to the purchase order. The purchases shall be
22 paid by attaching a properly itemized invoice, as described in this
23 section, to a purchase order which has been prepared by the county

1 purchasing agent and submitting them to the county clerk for filing,
2 encumbering, and consideration for payment by the board of county
3 commissioners.

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

7 Section 147.1 Any property owner or other interested party,
8 including but not limited to mortgagees, contractors, subcontractors
9 and others against whom a lien claim is filed under the provisions
10 of the law relating to mechanics' and materialmen's liens, may at
11 any time discharge the lien by depositing with the county clerk in
12 whose office the lien claim has been filed either: An amount of
13 money equal to one hundred twenty-five percent (125%) of the lien
14 claim amount; or a corporate surety bond with a penal amount equal
15 to one hundred twenty-five percent (125%) of the lien claim amount.
16 Within three (3) business days after the deposit of money or bond is
17 made, the county clerk shall serve upon the lien claimant, at the
18 address shown on the lien claim, written notice setting forth: The
19 number of the lien claim; the name of the lien claimant; the name of
20 the property owner; the name of the alleged debtor, if someone other
21 than the property owner; the property description shown on the lien
22 claim; and the amount of cash deposited or, if a bond is filed, the
23 names of the principal and surety and the bond penalty. The party

1 seeking to discharge the lien shall prepare and deliver the notice
2 to the county clerk and pay a fee ~~of Five Dollars (\$5.00) to cover~~
3 ~~the cost of filing and mailing~~ in accordance with Section 32 of
4 Title 28 of the Oklahoma Statutes. An abbreviated notice may be
5 used if the same refers to and encloses a copy of the lien claim and
6 either a copy of the cash receipt issued by the county clerk or a
7 copy of the bond with the clerk's filing stamp thereon. The notice
8 shall be mailed by registered or certified mail at the option of the
9 county clerk.

10 If cash is deposited, the county clerk shall immediately show
11 the lien released of record. If a bond is deposited, the lien
12 claimant shall have ten (10) days after the notice is mailed within
13 which to file a written objection with the county clerk. If a
14 written objection is not timely filed the county clerk shall
15 immediately show the lien released of record. If an objection is
16 timely made, the county clerk shall set a hearing within ten (10)
17 days thereafter and notify by ordinary mail both the lien claimant
18 and the party making the deposit of the date and time thereof. The
19 only grounds for objection shall be that: The surety is not
20 authorized to transact business in this state; the bond is not
21 properly signed; the penal amount is less than one hundred
22 twenty-five percent (125%) of the claim; the power of attorney of
23 the surety's attorney-in-fact does not authorize the execution;

1 there is no power of attorney attached if the bond is executed by
2 anyone other than the surety's president and attested by its
3 secretary; or a cease and desist order has been issued against the
4 surety either by the Insurance Commissioner or a court of competent
5 jurisdiction. Within two (2) business days following the hearing
6 the county clerk shall either sustain or overrule the objections and
7 notify the parties of the county clerk's ruling by ordinary mail.
8 If the objections are sustained, the ruling of the county clerk
9 shall be conclusive for lien release purposes unless appealed within
10 ten (10) days to the district court. If the objections are
11 overruled, the county clerk shall immediately show the lien released
12 of record.

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

1 upon which the lien claim is based. The conditions of any bond
2 filed pursuant to this section shall be deemed to comply with the
3 requirements hereof, regardless of the language or limitations set
4 forth therein, if both the principal and surety intend that the bond
5 be filed to secure a lien release under this section.

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

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

1 If the lien claimant fails to timely file a foreclosure action,
2 upon application of the party making the deposit or filing the bond
3 and the payment of a fee of Ten Dollars (\$10.00), the county clerk
4 shall return the cash to the party making the deposit or
5 appropriately note on the bond that the same has been released. The
6 clerk shall not incur liability to any lien claimant for an
7 inadvertent release of cash or bond. At the end of ten (10) years
8 and after the county clerk has attempted written notification to the
9 lien claimant at the address shown on the lien claim, if no
10 foreclosure has been commenced by the lien claimant or such money
11 has not been withdrawn upon application of the depositing party, the
12 cash deposit plus all accrued interest shall be forfeited to the
13 county general fund.

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

18 The county clerk shall invest the deposited cash in the manner
19 provided for county treasurers in Section 348.1 of Title 62 of the
20 Oklahoma Statutes. Any interest earned thereon shall become a part
21 of the deposit and be either returned to the party making the
22 deposit, if no action is filed, or paid in accordance with any final
23 judgment rendered by the court in the action against the substituted

1 security. If a district court judgment adverse to the depositing
2 party is entered, in setting the amount of supersedeas bond the
3 court shall take into consideration the existing cash deposit or
4 bond.

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

6 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated 3-26-07
7 - DO PASS.