

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 53rd Legislature (2011)

4 HOUSE BILL 2028

 By: Sullivan

5
6 AS INTRODUCED

7 An Act relating to municipalities; amending 12 O.S.
8 2001, Section 735, as amended by Section 4, Chapter
9 468, O.S.L. 2002 (12 O.S. Supp. 2010, Section 735),
10 which relates to judgment limitations; removing
11 municipalities as exception to five-year limitation
 on judgments; amending 62 O.S. 2001, Sections 365.5
 and 365.6, which relate to judgments against
 municipalities; modifying manner in which judgments
 shall be paid; and providing an effective date.

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

15 SECTION 1. AMENDATORY 12 O.S. 2001, Section 735, as
16 amended by Section 4, Chapter 468, O.S.L. 2002 (12 O.S. Supp. 2010,
17 Section 735), is amended to read as follows:

18 Section 735. A. A judgment shall become unenforceable and of
19 no effect if, within five (5) years after the date of filing of any
20 judgment that now is or may hereafter be filed in any court of
21 record in this state:

22 1. Execution is not issued by the court clerk and filed with
23 the county clerk as provided in Section 759 of this title;

1 2. A notice of renewal of judgment substantially in the form
2 prescribed by the Administrative Director of the Courts is not filed
3 with the court clerk;

4 3. A garnishment summons is not issued by the court clerk; or

5 4. A certified copy of a notice of income assignment is not
6 sent to a payor of the judgment debtor.

7 B. A judgment shall become unenforceable and of no effect if
8 more than five (5) years have passed from the date of:

9 1. The last execution on the judgment was filed with the county
10 clerk;

11 2. The last notice of renewal of judgment was filed with the
12 court clerk;

13 3. The last garnishment summons was issued; or

14 4. ~~The sending of a~~ A certified copy of a notice of income
15 assignment was sent to a payor of the judgment debtor.

16 C. This section shall not apply to ~~judgments against~~
17 ~~municipalities or to~~ child support judgments by operation of law.

18 SECTION 2. AMENDATORY 62 O.S. 2001, Section 365.5, is
19 amended to read as follows:

20 Section 365.5 Money judgments against any county or other
21 municipal subdivisions of the State of Oklahoma shall be paid in the
22 following manner, and may be paid in no other manner. ~~No payment~~
23 ~~shall be made until such judgment is first spread on the budget for~~

1 ~~levy as to the first third thereof,~~ Prior to payment, the judgment
2 may be spread on the budget for levy as to a minimum of twenty
3 percent (20%) and a maximum of thirty-three and one-third percent
4 (33 1/3%) thereof, subject to the discretion of the applicable
5 governing board of the entity against which the judgment was entered
6 and the levy or provision made therefor ~~has become~~ becomes final.
7 Within thirty (30) days after the final determination of any ad
8 valorem tax protests as involve levy for judgments against the
9 county or any of its municipal subdivisions, or, if no protests be
10 filed, then after termination of the forty-day protest period, the
11 judgment creditor or attorney for the judgment creditor shall file
12 with the treasurer of such municipality a claim, in form as
13 prescribed by the State Auditor and Inspector, itemizing the
14 judgments to be paid, stating the principal sum thereof, any sums
15 paid thereon, and the balance due with interest computed on the
16 unpaid portion of the principal amount of each judgment. The
17 information required by the claim form shall be supplied by the
18 treasurer of the municipality or of the county, as the case may be.
19 Such treasurer shall thereupon canvass his sinking fund for the
20 purpose of ascertaining if there be in his sinking fund for such
21 municipality an amount of actual cash over and above the amount of
22 cash needed to pay all coupons and bonds matured and maturing
23 therein within the time such sinking fund will be replenished from

1 levies made or to be made for such judgment, or judgments, he shall
2 approve such claim in such amount as is neither in excess of such
3 claim nor in excess of the actual cash reserve necessary for coupons
4 and bonds as hereinbefore defined and shall transmit it to the clerk
5 of such municipality. For all purposes of this act, the county
6 clerk shall act for the county and all townships and dependent
7 school districts therein. Upon receipt of such claim, the clerk
8 shall audit the same against his own records and, if found correct
9 he shall approve the same and return it to such treasurer, who shall
10 pay the amount thereof out of such sinking fund, to the clerk of the
11 court out of which such judgments issued. Upon receipt thereof such
12 court clerk shall issue his official receipt and deposit said funds
13 in his official depository account, and at the same time enter a
14 credit in each case involved in accordance with the claim previously
15 made or in ratio thereto; and thereafter, upon demand by the
16 judgment creditor or his assignee of record, he shall make payment
17 by his own official voucher in the same manner as in other cases and
18 credit the judgment roll of such judgment with the amount of payment
19 so made. No poundage or other fee shall be charged or collected by
20 the court clerk for monies received or paid under the provisions of
21 this act. If such claim can be only partly paid, under this
22 section, other claims shall be filed from time to time thereafter,
23 audited and paid in the same manner. No payment by the court clerk

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1 shall be authorized to be made to the assignee of any judgment
2 unless such assignment, duly acknowledged, be first entered of
3 record in such case and on such judgment roll.

4 SECTION 3. AMENDATORY 62 O.S. 2001, Section 365.6, is
5 amended to read as follows:

6 Section 365.6 If all, or more than ~~one third (1/3)~~ the
7 percentage of a judgment approved for payment pursuant to Section
8 365.5 of this title be paid after the levy for the first ~~third~~
9 percentage thereof becomes final, out of surplus cash as
10 hereinbefore provided, levies to reimburse the sinking fund shall
11 thereafter be made only if there be other outstanding indebtedness,
12 in the same manner as if such prepayment had not been made, but levy
13 for interest shall not be included on such prepaid portion other
14 than for interest paid in excess of that already provided for by tax
15 levy.

16 SECTION 4. This act shall become effective November 1, 2011.

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18 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated 03-03-
19 2011 - DO PASS.

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