STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 695 By: Holt of the Senate

and

Dank of the House

COMMITTEE SUBSTITUTE

An Act relating to cities and towns; authorizing municipality to collect unpaid solid waste service accounts; requiring certain notice be given to account holder and property owner; providing for posting and publication of notice if unable to locate the account holder and property owner; providing for hearing to determine account delinquency; authorizing filing notice of lien on property if certain delinquency found; stating priority of lien; authorizing municipality to pursue civil remedy in certain cases; prohibiting severed mineral interest from being subject to any liens; requiring discharge of lien upon payment; authorizing discontinuation of service until delinquency is resolved; requiring notice for termination of service; providing right to public hearing; authorizing municipality to collect unpaid stormwater drainage service accounts; providing account holder and property owner with appeal process; defining terms; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 22-112.5 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. The governing body of a public entity may cause its utility accounts that have unpaid solid waste service within the municipal limits to be collected in accordance with the following procedure:

1. The clerk of the public entity shall forward a notice of a hearing for a delinquent account as determined by the policies adopted by the public entity regarding nonpayment and a demand for payment by mail to the account holder at the last known address as shown on the account and any property owner at the address shown by the current year's tax rolls in the office of the county treasurer. If the public entity intends to discontinue such service if the delinquency is not resolved, the notice shall include a statement notifying the account holder and the property owner that such service will be discontinued if the delinquency is not resolved. At the time of mailing of the notice of the delinquent account to the account holder and property owner, the public entity shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. However, if the account holder or property owner cannot be located, notice may be given to such account holder or property owner by posting a copy of the notice on the property and by publication, as defined in Section 1-102 of Title 11 of the Oklahoma Statutes, one

time no less than thirty (30) days prior to any hearing or action by the public entity;

2. At least thirty (30) days notice shall be given to the account holder and property owner before the governing body holds a hearing or takes action;

3. A hearing may be held by the governing body to determine:

a. the delinquency of the account as determined by the policies adopted by the public entity regarding nonpayment,

b. the actual cost of the service provided by the public entity excluding late charges, penalties and interest, and

c. any other expenses as may be necessary in connection therewith, including the cost of notice, publication, and mailing;

4. Upon a finding of delinquency of the account consistent with the policies adopted by the public entity regarding nonpayment, cost of the service and expenses, the clerk of the public entity may file a notice of lien with the county clerk of the county in which the property is located describing the property, cost of the service provided and expenses incurred by the municipality, excluding late charges, penalties and interest, and stating that the public entity claims a lien on the property for this service; provided, that a

lien shall not be filed against property in which the delinquent account is owed by a tenant or lessee and not by the property owner;

5. The cost of service provided and expenses incurred, excluding late charges, penalties and interest, shall be a lien against the property from the date the notice of lien is filed with the county clerk and shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and prior and superior to all other titles and liens against the property, and the lien shall continue until the cost and expenses shall be fully paid; provided, that the county treasurer shall not conduct a tax sale of the property pursuant to Section 3105 of Title 68 of the Oklahoma Statutes. The public entity may pursue a civil remedy for collection of the amount owing and interest by an action in personam against the account holder and property owner. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any lien created pursuant to this section. Upon receiving payment, if any, the clerk of the public entity shall, within ten (10) days, file a release of lien with the county clerk discharging the lien; and

6. Upon a finding of delinquency of the account consistent with the policies adopted by the public entity regarding nonpayment, the public entity may discontinue such service at the property until such time as the delinquency is resolved; provided that notice of such termination of service was provided to the account holder and

property owner pursuant to paragraph 1 of subsection A of this section. If such notice has not been provided, but the account remains delinquent, the public entity may only terminate such service upon providing notice of the termination of service by mail with a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee, to the account holder and property owner at least thirty (30) days prior to the proposed date of termination. The account holder and/or property owner shall have a right to be heard on the proposed termination of service at a public hearing held by the governing body of the public entity by filing a written notice to be heard with the clerk of the public entity prior to the proposed termination date.

B. The governing body of a public entity may cause utility accounts that have unpaid stormwater drainage service to be collected in accordance with the procedures in subsection A of this section.

C. The account holder and property owner shall have a right of appeal to the governing body from any finding of delinquency of the account. The appeal shall be taken by filing written notice of appeal with the clerk of the public entity within thirty (30) days after the governing body's finding of delinquency of the account as provided for in subsections A and B of this section.

D. As used in this section:

1. "Account holder" means the person or entity that set up the solid waste, stormwater drainage or wastewater account with the public entity;

2. "Property owner" means the owner of record as shown by the most current records of the county assessor;

3. "Public entity" means any municipality, public trust or public utility which provides water, solid waste, stormwater or wastewater service to account holders;

4. "Solid waste" shall have the same meaning as provided in Section 2-10-103 of Title 27A of the Oklahoma Statutes; and

5. "Stormwater" shall have the same meaning as provided in Section 1-1-201 of Title 27A of the Oklahoma Statutes.

SECTION 2. This act shall become effective November 1, 2016.

55-2-9733 AMM 04/06/16