

1 ENGROSSED SENATE
2 BILL NO. 695

By: Holt of the Senate

and

Dank of the House

3
4
5
6 [cities and towns - collect unpaid solid waste
7 service accounts - notice - hearing - notice of lien
8 - civil remedy - severed mineral interest - payment
9 and discharge of lien - unpaid storm water drainage
10 service accounts - refuse utility service - terminate
11 certain water service - codification - effective
12 date]

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

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

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

20 1. The clerk of the public entity shall forward a notice of a
21 hearing for a delinquent account as determined by the policies
22 adopted by the public entity regarding nonpayment and a demand for
23 payment by mail to the account holder at the last known address as
24 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

1 delinquency is not resolved, the notice shall include a statement
2 notifying the account holder and the property owner that such
3 service will be discontinued if the delinquency is not resolved. At
4 the time of mailing of the notice of the delinquent account to the
5 account holder and property owner, the public entity shall obtain a
6 receipt of mailing from the postal service, which receipt shall
7 indicate the date of mailing and the name and address of the mailee.
8 However, if the account holder or property owner cannot be located,
9 notice may be given to such account holder or property owner by
10 posting a copy of the notice on the property and by publication, as
11 defined in Section 1-102 of Title 11 of the Oklahoma Statutes, one
12 time no less than thirty (30) days prior to any hearing or action by
13 the public entity;

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

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

- 18 a. determine the delinquency of the account as determined
19 by the policies adopted by the public entity regarding
20 nonpayment,
- 21 b. the actual cost of the service provided by the public
22 entity excluding late charges, penalties, and
23 interest, and
24

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

4 4. Upon a finding of delinquency of the account consistent with
5 the policies adopted by the public entity regarding nonpayment, cost
6 of the service and expenses, the clerk of the public entity may file
7 a notice of lien with the county clerk of the county in which the
8 property is located describing the property, cost of the service
9 provided and expenses incurred by the municipality, excluding late
10 charges, penalties, and interest, and stating that the public entity
11 claims a lien on the property for this service; provided, that a
12 lien shall not be filed against property in which the delinquent
13 account is owed by a tenant or lessee and not by the property owner;

14 5. The cost of service provided and expenses incurred,
15 excluding late charges, penalties and interest, shall be a lien
16 against the property from the date the notice of lien is filed with
17 the county clerk and shall be coequal with the lien of ad valorem
18 taxes and all other taxes and special assessments and prior and
19 superior to all other titles and liens against the property, and the
20 lien shall continue until the cost and expenses shall be fully paid.
21 Provided that the county treasurer shall not conduct a tax sale of
22 the property pursuant to Section 3105 of Title 68 of the Oklahoma
23 Statutes. The public entity may pursue a civil remedy for
24 collection of the amount owing and interest by an action in personam

1 against the property owner. A mineral interest, if severed from the
2 surface interest and not owned by the surface owner, shall not be
3 subject to any lien created pursuant to this section. Upon
4 receiving payment, if any, the clerk of the public entity shall,
5 within ten (10) days, file a release of lien with the county clerk
6 discharging the lien; and

7 6. Upon a finding of delinquency of the account consistent with
8 the policies adopted by the public entity regarding nonpayment, the
9 public entity may discontinue such service at the property until
10 such time as the delinquency is resolved; provided that notice of
11 such termination of service was provided to the account holder and
12 property owner pursuant to paragraph 1 of subsection A of this
13 section. If such notice has not been provided, but the account
14 remains delinquent, the public entity may only terminate such
15 service upon providing notice of the termination of service by mail
16 with a receipt of mailing from the postal service, which receipt
17 shall indicate the date of mailing and the name and address of the
18 mailee, to the account holder and property owner at least thirty
19 (30) days prior to the proposed date of termination. The account
20 holder and/or property owner shall have a right to be heard on the
21 proposed termination of service at a public hearing held by the
22 governing body of the public entity by filing a written notice to be
23 heard with the clerk of the public entity prior to the proposed
24 termination date.

1 B. The governing body of a public entity may cause utility
2 accounts that have unpaid storm water drainage service or wastewater
3 service to be collected in accordance with the procedures in
4 subsection A of this section.

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

11 D. Where water service is provided to real property by one
12 public entity but that property receives wastewater service from
13 another public entity, and where the wastewater account for the
14 property has been found to be delinquent as provided in subsection A
15 of this section, the governing body of the public entity providing
16 wastewater service to that property may request the public entity
17 providing water service to the property to terminate water service
18 to the property should the governing body of public entity providing
19 wastewater service determine that the wastewater service is to be
20 terminated pursuant to subsection A of this section. The governing
21 body of the public entity providing wastewater service requesting
22 the termination of water service shall provide notice to the public
23 entity providing water service and to the account holder and
24 property owner of the subject property at least thirty (30) days

1 prior to the proposed date for termination. The public entity
2 providing water service may terminate water service at the subject
3 property on the proposed date for termination or within thirty (30)
4 days thereafter. Should the wastewater delinquency be resolved
5 during the pendency of the termination of water service, or sometime
6 thereafter, the public entity which requested termination of water
7 service shall provide notice to the public entity providing water
8 service and to the account holder and the property owner of the
9 resolution of the delinquency.

10 E. As used in this section:

11 1. "Account holder" means the person or entity that set up the
12 solid waste, storm water drainage or wastewater account with the
13 public entity;

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

16 3. "Public Entity" means any municipality, public trust or
17 public utility which provides water, solid waste, storm water or
18 wastewater service to account holders;

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

21 5. "Storm water" shall have the same meaning as provided in
22 Section 1-1-201 of Title 27A of the Oklahoma Statutes; and

23 6. "Wastewater" shall have the same meaning as provided in
24 Section 1-1-201 of Title 27A of the Oklahoma Statutes.

