

1 **SENATE FLOOR VERSION**

February 16, 2015

2 **AS AMENDED**

3 SENATE BILL NO. 695

By: Holt of the Senate

4 and

5 Dank of the House

6
7
8 **[cities and towns - unpaid service accounts - notice**
9 **- notice of lien on property - utility service -**
10 **codification - effective date]**

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

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

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

18 1. The clerk of the public entity shall forward a notice of a
19 hearing for a delinquent account as determined by the policies
20 adopted by the public entity regarding nonpayment and a demand for
21 payment by mail to the account holder at the last known address as
22 shown on the account and any property owner at the address shown by
23 the current year's tax rolls in the office of the county treasurer.
24 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 ten (10) days prior to any hearing or action by
13 the public entity;

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

17 3. A hearing may be held by the governing body to determine the
18 delinquency of the account for a minimum of four consecutive billing
19 cycles of nonpayment, the actual cost of the service provided by the
20 public entity and any other expenses as may be necessary in
21 connection therewith, including the cost of notice, publication and
22 mailing;

23 4. Upon a finding of delinquency of the account consistent with
24 the polices adopted by the public entity regarding nonpayment, cost

1 of the service and expenses, the clerk of the public entity shall
2 file a notice of lien with the county clerk of the county in which
3 the property is located describing the property, cost of the service
4 provided and expenses incurred by the municipality and stating that
5 the public entity claims a lien on the property for this service.
6 Upon a finding of delinquency of the account consistent with the
7 policies adopted by the public entity regarding nonpayment, the
8 public entity may discontinue such service at the property until
9 such time as the delinquency is resolved, provided that notice of
10 such termination of service was provided to the account holder and
11 property owner as stated in paragraph 1 of subsection A. If such
12 notice has not been provided, but the account remains delinquent,
13 the public entity may only terminate such sewer or waste water
14 service upon providing notice of the termination of service to the
15 account holder and property owner at least thirty (30) days prior to
16 the proposed date of termination. The account holder or property
17 owner shall have a right to be heard on the proposed termination of
18 service at a public hearing held by the governing body of the public
19 entity; and

20 5. The cost of service provided and expenses incurred shall be
21 a lien against the property from the date the notice of lien is
22 filed with the county clerk and shall be coequal with the lien of ad
23 valorem taxes and all other taxes and special assessments and prior
24 and superior to all other titles and liens against the property, and

1 the lien shall continue until the cost and expenses shall be fully
2 paid. Provided that the county treasurer shall not conduct a tax
3 sale of the property pursuant to Section 3105 of Title 68 of the
4 Oklahoma Statutes. The public entity may pursue a civil remedy for
5 collection of the amount owing and interest by an action in personam
6 against the property owner. A mineral interest, if severed from the
7 surface interest and not owned by the surface owner, shall not be
8 subject to any lien created pursuant to this section. Upon
9 receiving payment, if any, the clerk of the public entity shall,
10 within ten (10) days, file a release of lien with the county clerk
11 discharging the lien.

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

16 C. The account holder and property owner shall have a right of
17 appeal to the governing body from any finding of delinquency of the
18 account. The appeal shall be taken by filing written notice of
19 appeal with the clerk of the public entity within ten (10) days
20 after the governing body's finding of delinquency of the account as
21 provided for in subsections A and B of this section.

22 D. Where water service is provided to real property by one
23 public entity but that property receives sewer or waste water
24 service from another public entity, and where the sewer or waste

1 water account for the property has been found to be delinquent as
2 provided in subsection A above, the governing body of the public
3 entity providing sewer or waste water service to that property may
4 request the public entity providing water service to the property to
5 terminate water service to the property should the governing body of
6 public entity providing sewer or waste water service determine that
7 the sewer or waste water service is to be terminated pursuant to
8 subsection A. The governing body of the public entity providing
9 sewer and/or waste water service requesting the termination of water
10 service shall provide notice to the public entity providing water
11 service and to the account holder and property owner of the subject
12 property at least thirty (30) days prior to the proposed date for
13 termination. The public entity providing water service may
14 terminate water service at the subject property on the proposed date
15 for termination or within thirty (30) days thereafter. Should the
16 sewer and/or waste water delinquency be resolved during the pendency
17 of the termination of water service, or sometime thereafter, the
18 public entity which requested termination of water service shall
19 provide the account holder and the property owner notice of the
20 resolution of the delinquency upon request.

21 E. As used in this section:

22 1. "Account holder" means the person or entity that set up the
23 solid waste or storm water drainage account with the municipality;
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1 2. "Property owner" means the owner of record as shown by the
2 most current records of the county assessor;

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

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

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

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

12 SECTION 2. This act shall become effective November 1, 2015.

13 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
14 February 16, 2015 - DO PASS AS AMENDED
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