

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 695

By: Holt

4
5 AS INTRODUCED

6 An Act relating to cities and towns; authorizing
7 municipality to collect unpaid solid waste service
8 accounts; requiring certain notice be given to
9 account holder and property owner; prescribing where
10 to send notice; mandating receipt of mailing notice;
11 providing for posting and publication of notice if
12 unable to locate the account holder and property
13 owner; providing for hearing to determine account
14 delinquency; requiring filing notice of lien on
15 property if certain delinquency found; stating
16 certain superiority of lien; authorizing municipality
17 to pursue civil remedy in certain cases; prohibiting
18 severed mineral interest from being subject to any
19 liens; requiring notice of payment and discharge of
20 lien; authorizing municipality to collect unpaid
21 storm water drainage service accounts; providing
22 account holder and property owner with appeal
23 process; applying this process to unpaid storm water
24 accounts and wastewater accounts; defining terms;
authorizing municipalities to refuse utility service
until delinquency is cured; authorizing
municipalities to terminate certain water service
creating a public nuisance; stating procedure for
termination of water service; providing for
codification; and providing an effective date.

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

26 SECTION 1. NEW LAW A new section of law to be codified
27 in the Oklahoma Statutes as Section 22-112.5 of Title 11, unless
28 there is created a duplication in numbering, reads as follows:
29

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

4 1. The clerk of the public entity shall forward a notice of a
5 hearing for a delinquent account as determined by the policies
6 adopted by the public entity regarding nonpayment and a demand for
7 payment by mail to the account holder at the last known address as
8 shown on the account and any property owner at the address shown by
9 the current year's tax rolls in the office of the county treasurer.
10 If the public entity intends to discontinue such service if the
11 delinquency is not resolved, the notice shall include a statement
12 notifying the account holder and the property owner that such
13 service will be discontinued if the delinquency is not resolved. At
14 the time of mailing of the notice of the delinquent account to the
15 account holder and property owner, the public entity shall obtain a
16 receipt of mailing from the postal service, which receipt shall
17 indicate the date of mailing and the name and address of the mailee.
18 However, if the account holder or property owner cannot be located,
19 notice may be given to such account holder or property owner by
20 posting a copy of the notice on the property and by publication, as
21 defined in Section 1-102 of Title 11 of the Oklahoma Statutes, one
22 time no less than ten (10) days prior to any hearing or action by
23 the public entity;

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

4 3. A hearing may be held by the governing body to determine the
5 delinquency of the account for a minimum of four consecutive billing
6 cycles of nonpayment, the actual cost of the service provided by the
7 public entity and any other expenses as may be necessary in
8 connection therewith, including the cost of notice, publication and
9 mailing;

10 4. Upon a finding of delinquency of the account consistent with
11 the policies adopted by the public entity regarding nonpayment, cost
12 of the service and expenses, the clerk of the public entity shall
13 file a notice of lien with the county clerk of the county in which
14 the property is located describing the property, cost of the service
15 provided and expenses incurred by the municipality and stating that
16 the public entity claims a lien on the property for this service.
17 Upon a finding of delinquency of the account consistent with the
18 policies adopted by the public entity regarding nonpayment, the
19 public entity may discontinue such service at the property until
20 such time as the delinquency is resolved, provided that notice of
21 such termination of service was provided to the account holder and
22 property owner as stated in paragraph 1 of subsection A. If such
23 notice has not been provided, but the account remains delinquent,
24 the public entity may only terminate such sewer or waste water

1 service upon providing notice of the termination of service to the
2 account holder and property owner at least thirty (30) days prior to
3 the proposed date of termination. The account holder or property
4 owner shall have a right to be heard on the proposed termination of
5 service at a public hearing held by the governing body of the public
6 entity.; and

7 5. The cost of service provided and expenses incurred shall be
8 a lien against the property from the date the notice of lien is
9 filed with the county clerk and shall be coequal with the lien of ad
10 valorem taxes and all other taxes and special assessments and prior
11 and superior to all other titles and liens against the property, and
12 the lien shall continue until the cost and expenses shall be fully
13 paid. Provided that the county treasure shall not conduct a tax
14 sale of the property pursuant to Section 3105 of Title 68 of the
15 Oklahoma Statutes. The public entity may pursue a civil remedy for
16 collection of the amount owing and interest by an action in personam
17 against the property owner. A mineral interest, if severed from the
18 surface interest and not owned by the surface owner, shall not be
19 subject to any lien created pursuant to this section. Upon
20 receiving payment, if any, the clerk of the public entity shall,
21 within ten (10) days, file a release of lien with the county clerk
22 discharging the lien.

23 B. The governing body of a public entity may cause utility
24 accounts that have unpaid storm water drainage service or wastewater

1 service to be collected in accordance with the procedures in
2 subsection A of this section.

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

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

1 terminate water service at the subject property on the proposed date
2 for termination or within thirty (30) days thereafter. Should the
3 sewer and/or waste water delinquency be resolved during the pendency
4 of the termination of water service, or sometime thereafter, the
5 public entity which requested termination of water service shall
6 provide the account holder and the property owner notice of the
7 resolution of the delinquency upon request.

8 E. As used in this section:

9 1. "Account holder" means the person or entity that set up the
10 solid waste or storm water drainage account with the municipality;

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

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

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

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

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

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

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24 55-1-947

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