

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 HOUSE BILL 3318

By: Fetgatter

6 AS INTRODUCED

7 An Act relating to counties and county commissioners;  
19 O.S. 2011, Section 421.1, as last amended by  
8 Section 1, Chapter 174, O.S.L. 2017 (19 O.S. Supp.  
2017, Section 421.1), which relates to the sale of  
9 county property; requiring certain additional notice  
and bid solicitation for sale of certain county  
10 property under certain circumstances; authorizing the  
sale of certain county property below market value if  
11 certain conditions are met; and providing an  
effective date.  
12

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

15 SECTION 1. AMENDATORY 19 O.S. 2011, Section 421.1, as  
16 last amended by Section 1, Chapter 174, O.S.L. 2017 (19 O.S. Supp.  
17 2017, Section 421.1), is amended to read as follows:

18 Section 421.1 A. The board of county commissioners is hereby  
19 authorized to use any tools, apparatus, machinery or equipment  
20 belonging to the county, the original cost of which exceeded Five  
21 Hundred Dollars (\$500.00), as a trade-in on a cash purchase or lease  
22 purchase of any other tools, apparatus, machinery or equipment.

23 B. To establish an appraised value for an item to be sold at  
24 public auction, the purchasing agent may refer to an industry-

1 recognized appraisal manual for used construction equipment to  
2 estimate the value of the item being sold, or obtain appraisal  
3 quotes from at least two vendors in the business of selling items  
4 like the one being sold.

5 C. Except when such items are disposed of pursuant to  
6 subsection F of this section, the following procedures shall be used  
7 for the sale, by the board of county commissioners, of any tools,  
8 apparatus, machinery or equipment, the original cost of which  
9 exceeded Five Hundred Dollars (\$500.00), belonging to the county:

10 1. The board of county commissioners shall give notice of such  
11 sale by publication in a newspaper of general paid circulation in  
12 the county for two (2) successive weekly issues;

13 2. Bids for such tools, apparatus, machinery or equipment on  
14 sale shall be in writing, sealed and delivered to the county clerk  
15 of such county;

16 3. At the next regular meeting of the board of county  
17 commissioners after the expiration of fifteen (15) days from the  
18 date of first publication of notice of the sale, the board of county  
19 commissioners shall open such bids and award such tools, apparatus,  
20 machinery or equipment to the highest and best bidder with the  
21 option of rejecting all bids; and

22 4. The board of county commissioners may hold a public auction  
23 or use an Internet auction, which may include online bidding, in  
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1 lieu of advertising for sealed bids as provided above. Such auction  
2 shall be advertised as provided herein.

3 D. A board of county commissioners may sell any materials,  
4 tools, apparatus, machinery or equipment to a tribal governmental  
5 entity, state agency, if the agency is subject to The Oklahoma  
6 Central Purchasing Act, or to a political subdivision of the state  
7 if the political subdivision is subject to such act or a similar  
8 competitive bidding procedure. The board of county commissioners  
9 may purchase materials, tools, apparatus, machinery or equipment  
10 from a state agency, if the agency is subject to The Oklahoma  
11 Central Purchasing Act, or from a political subdivision of the state  
12 if the political subdivision is subject to such act or a similar  
13 competitive bidding procedure.

14 E. The board of county commissioners may, by resolution, enter  
15 into an agreement with any tribal governmental entity or other  
16 county or political subdivision for the purpose of selling,  
17 transferring, trading or otherwise disposing of equipment or  
18 materials.

19 F. Advertisement of surplus property consigned to sell at a  
20 Circuit Engineering District auction shall be provided by the  
21 auction company under contract to conduct the sale. Advertising  
22 shall be provided to attract the most potential buyers. Advertising  
23 media may include, but not be limited to, sale flyers, newspapers,  
24 radio, television, and Internet postings.

1       G. Pursuant to the authority of Section 1 of this title, boards  
2 of county commissioners shall have authority, under such statute and  
3 in consideration of the procedures in this section to sell real  
4 property belonging to the county without declaring such property  
5 surplus under the following conditions:

6       1. A certified appraisal of the county property shall be  
7 performed to determine the market value of the property and accepted  
8 by the board of county commissioners;

9       2. After acceptance of the certified appraisal, the board of  
10 county commissioners shall, pursuant to the requirements of this  
11 section, give notice of such sale by publication in a newspaper of  
12 general paid circulation in the county for two successive weekly  
13 issues;

14       3. Bids for the real property shall be in writing, sealed and  
15 delivered to the county clerk of such county;

16       4. At the next regular meeting of the board of county  
17 commissioners after the expiration of fifteen (15) days from the  
18 date of first publication of notice of sale, the board of county  
19 commissioners shall open such bids;

20       5. A successful bid must be no less than the market value of  
21 the real property to be considered by the board of county  
22 commissioners for acceptance. The board of county commissioners  
23 reserves the right to reject any and all bids;

1        6. If more than one bid is above the market value of the real  
2 property, the board of county commissioners shall have the right to  
3 compel the potential buyers of the real property who have bid above  
4 the market amount to enter into public auction conducted by the  
5 chairman of the board of county commissioners after the opening of  
6 such bids, to establish the highest bid for the property in order to  
7 assure that the county is receiving adequate consideration for the  
8 property;

9        7. A majority vote of the board of county commissioners shall  
10 be required to determine the successful bidder of the real property.  
11 Upon awarding the bid, either through sealed bid or by conducting a  
12 public auction of those bidders who bid more than the market value  
13 of the real property, the board of county commissioners shall have  
14 the right to pledge the occupied property, using an irrevocable bond  
15 or letter of credit, as provided for in paragraph 10 of this  
16 subsection, as collateral in order to finance bonds to purchase  
17 other real property or build a replacement building, or both;

18        8. If the sale price is less than the estimated cost of new  
19 land purchase or construction, then said sales contract shall be  
20 contingent upon the public approval of bond funding or other  
21 authorized funding to allow the complete payment of the contemplated  
22 project;

23        9. The board of county commissioners shall have authority  
24 pursuant to paragraphs 5 and 6 of Section 1 of this title to make

1 any order concerning the sale of such property contingent upon a  
2 closing date in the future in order to continue to use said real  
3 property until a replacement building is completed. Upon completion  
4 of the replacement building, the board of county commissioners shall  
5 execute all documents and title transfers pertaining to said real  
6 property to the successful bidder; ~~and~~

7 10. The successful bidder shall execute an irrevocable bond or  
8 letter of credit with a surety company or bank licensed to do  
9 business in the State of Oklahoma and organized under the corporate  
10 laws of the State of Oklahoma and registered with the Secretary of  
11 State of Oklahoma equal to the amount of the purchase price of the  
12 real property within fifteen (15) days of awarding of the bid.  
13 Failure to provide either an irrevocable bond or letter of credit in  
14 favor of the board of county commissioners within said time  
15 limitation shall act as a rejection and cancellation by the board of  
16 the award of bid and said board may, at that point, enter into a  
17 contract with any secondary or subsequent bidder that meets the  
18 aforementioned qualifications without further notice; and

19 11. If there are no bids submitted or all submitted bids are  
20 less than the market value of the real property after the expiration  
21 of fifteen (15) days from the date of first publication of notice of  
22 sale, the board of county commissioners shall publish the notice of  
23 sale and accept bids for a second time complying with the  
24 requirements of paragraphs 2 through 4 of this subsection. If there

1 are no bids submitted or all submitted bids are less than the market  
2 value of the real property after the expiration of fifteen (15) days  
3 from the date of second publication of notice of sale, the board of  
4 county commissioners shall have the right to sell real property,  
5 upon majority vote, without any bidding procedure or auction,  
6 directly to any person or entity for an amount that is less than  
7 market value of the property.

8 H. The board of county commissioners may solicit telephone bids  
9 for the removal of recyclable materials.

10 SECTION 2. This act shall become effective November 1, 2018.

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