

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   2nd Session of the 55th Legislature (2016)

4 COMMITTEE SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 695

By: Holt and Pittman of the  
Senate

and

Hall of the House

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10                                   COMMITTEE SUBSTITUTE

11                   An Act relating to cities and towns; authorizing  
12                   municipality to collect unpaid solid waste service  
13                   accounts; requiring certain notice be given to  
14                   account holder and property owner; providing for  
15                   posting and publication of notice if unable to locate  
16                   the account holder and property owner; providing for  
17                   hearing to determine account delinquency; authorizing  
18                   filing notice of lien on property if certain  
19                   delinquency found; stating priority of lien;  
20                   authorizing municipality to pursue civil remedy in  
21                   certain cases; prohibiting severed mineral interest  
22                   from being subject to any liens; requiring discharge  
23                   of lien upon payment; authorizing discontinuation of  
24                   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:

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

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

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

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

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

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

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

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

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

16 4. Upon a finding of delinquency of the account consistent with  
17 the policies adopted by the public entity regarding nonpayment, cost  
18 of the service and expenses, the clerk of the public entity may file  
19 a notice of lien with the county clerk of the county in which the  
20 property is located describing the property, cost of the service  
21 provided and expenses incurred by the municipality, excluding late  
22 charges, penalties and interest, and stating that the public entity  
23 claims a lien on the property for this service; provided, that a  
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1 lien shall not be filed against property in which the delinquent  
2 account is owed by a tenant or lessee and not by the property owner;

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

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

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

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

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

24 D. As used in this section:

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

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

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

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

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

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

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15 COMMITTEE REPORT BY: COMMITTEE ON COUNTY AND MUNICIPAL GOVERNMENT,  
16 dated 04/06/2016 - DO PASS, As Amended and Coauthored.

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