

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 2423

By: Nichols

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7 COMMITTEE SUBSTITUTE

8 An Act relating to cities and towns; defining terms;
9 providing applicability to all municipalities;
10 providing that the provisions do not apply to owner-
11 occupied property; providing that any fees, penalties
12 and abatement costs imposed against property for
13 violations of a municipality's housing and building
14 codes may be enforced in rem as a lien; providing
15 that municipalities may proceed with judicial in rem
16 foreclosures of municipal code liens by an enactment
17 of an ordinance or resolution of the governing
18 authority of the municipality in which the real
19 property is located; providing requirements for a
20 municipal ordinance authorizing liens and
21 foreclosures pursuant to this act; providing this act
22 does not constitute an action for personal liability
23 for the municipal code liens against the owner or
24 owners of the real property; providing that the
rights and remedies set forth in this act are
available solely to the governmental entities
authorized by law to enforce municipal ordinances;
providing that a municipality that seeks to enforce a
municipal code lien through the sale of real property
shall utilize the judicial in rem proceedings of this
act as the sole remedy; providing that enforcement
proceedings may be initiated only by the
municipality; providing timeframe for filing a
petition for judicial in rem foreclosure for a
municipal code lien; providing requirements for
filing a petition for judicial in rem foreclosure
when the property is subject to unpaid taxes;
providing notice requirements needed prior to a
judicial in rem foreclosure; repealing 11 O.S. 2011,
Section 22-111, as amended by Section 1, Chapter 136,

1 O.S.L. 2012 (11 O.S. Supp. 2020, Section 22-111),
2 which relates to clearing and mowing of property;
3 repealing 11 O.S. 2011, Section 22-112, which relates
4 to condemnation of dilapidated buildings; and
5 providing an effective date.

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

7 SECTION 1. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 22-140 of Title 11, unless there
9 is created a duplication in numbering, reads as follows:

10 As used in this act, the following words and phrases shall have
11 the following meanings:

12 1. "Code enforcement director" is an employee of the
13 municipality who is tasked by the municipal governing body with the
14 enforcement of state law or local ordinances related to the
15 condition of real property within the jurisdiction of the
16 municipality;

17 2. "Interested party" means:

- 18 a. the person who last appears as owner of the real
19 property in the county records,
20 b. the current mortgagee of record of the property or
21 assignee of record of the mortgagee,
22 c. the current holder of a beneficial interest in a deed
23 of trust recorded against the real property,
24 d. a tax certificate holder, or

1 e. any party having an interest in the real property, or
2 in any part thereof, legal or equitable, in severalty
3 or as tenant in common, whose identity and addresses
4 are reasonably ascertainable from the records of the
5 municipality or records maintained in the county
6 records or as revealed by a full title search,
7 consisting of fifty (50) years or more.

8 An interested party shall not include the holder of the benefit
9 of an easement which burdens the real property, the holder of the
10 benefit or burden of a real covenant which burdens the real
11 property, or the holder of the benefit of a utility easement which
12 burdens the real property;

13 3. "Minimum bid price" means the price that equals the
14 redemption amount;

15 4. "Municipal code lien" means any lien that has been levied
16 against real property by a municipality that is the result of the
17 nonpayment of any fine, penalty, abatement cost or enforcement cost
18 incurred by a municipality related to the enforcement of state or
19 local housing and building codes. Such lien shall include only
20 those liens which arise out of a failure to comply with any law of
21 the State of Oklahoma, or from the failure to comply with a
22 municipality's ordinances or resolutions.

23 A municipal code lien shall not include any lien that has
24 previously been certified to the tax collector of the county for

1 inclusion on the property tax bill associated with the real
2 property;

3 5. "Municipal code lien payoff" means the principal amount of a
4 municipal code lien, interest accrued at the rate of seven and one-
5 half percent (7.5%) per annum from the date the municipal code lien
6 was filed in the office of county clerk, any fees or costs incurred
7 in the collection of such a lien under this act including, without
8 limitations, the cost of title examinations and publication of
9 notices, and any other penalties allowable under either the laws of
10 the State of Oklahoma or under an ordinance or resolution enacted by
11 the municipality;

12 6. "Owner-occupied" means real property that is lawfully
13 occupied as a principal residence that is any of the following:

- 14 a. a homestead as described in Section 2888 of Title 68
15 of the Oklahoma Statutes,
- 16 b. exempt from ad valorem taxation under Sections 2904
17 through 2911 of Title 68 of the Oklahoma Statutes, and
- 18 c. eligible for the designations listed in subparagraph a
19 or b or this paragraph, but which has not yet been
20 granted such designation and which is lawfully
21 occupied by the family of a deceased individual;

22 7. "Redemption amount" means the sum of:
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1 a. the full amount of the municipal code lien payoff for
2 each municipal code lien on which the municipality is
3 seeking to foreclose under this act, and

4 b. any tax payoff that may be applicable to the property
5 on which the municipality is seeking to foreclose
6 under this act;

7 8. "Taxes" means those taxes assessed against real property by
8 either by the State of Oklahoma, the county in which the real
9 property is situated, or the municipality that are delinquent, as of
10 the date a proceeding under this act is commenced or at any time
11 before final resolution of the same, and shall also include any
12 taxes assessed against real property that are unpaid from any
13 previous year and any amounts required for redemption. As provided
14 in Section 3103 of Title 68 of the Oklahoma Statutes, a lien for
15 taxes shall be superior to all other liens, including municipal code
16 liens;

17 9. "Tax certificate holder" means any of the following:

18 a. a tax sale purchaser that holds a certificate of
19 purchase,

20 b. the state, where it has accepted and recorded a
21 certificate of purchase obtained at a tax sale,

22 c. any party to which a certificate of purchase obtained
23 at a tax sale has been assigned, or
24

1 d. the purchaser or assignee of a tax lien certificate;
2 and

3 10. "Tax payoff" means any all amounts necessary to satisfy any
4 claims for delinquent taxes assessed against the real property on
5 which the municipality is seeking to foreclosure under this act.

6 Those amounts shall include:

7 a. if the taxes associated with the property are
8 delinquent, but the property has not yet been sold for
9 taxes, the full amount of delinquent taxes, costs,
10 fees and charges due to the county tax collector,

11 b. if the property has been sold for taxes to either the
12 state or to a party other than the state, those
13 amounts required for redemption, except for when a
14 municipality is the prevailing bidder, the tax payoff
15 amount shall be the lesser of these amounts, and

16 c. if a tax lien has been sold by a county, the amount
17 required for redemption.

18 SECTION 2. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 22-141 of Title 11, unless there
20 is created a duplication in numbering, reads as follows:

21 A. The provisions of this act shall apply to any municipal
22 governing body that adopts the provisions of this act to be
23 applicable to the collection of municipal code liens as to real
24 property, other than owner-occupied property, in the municipality.

1 B. The provisions of this act shall not apply to owner-occupied
2 property.

3 SECTION 3. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 22-142 of Title 11, unless there
5 is created a duplication in numbering, reads as follows:

6 Notwithstanding any law to the contrary, any fees, penalties and
7 abatement costs imposed against property other than owner-occupied
8 real property for violations of a municipality's housing and
9 building codes adopted pursuant to the statutes of the State of
10 Oklahoma may be enforced in rem as a lien in accordance with this
11 act.

12 Every municipal code lien, as defined in this act, shall be
13 superior to all other liens, except those liens for taxes described
14 or referenced in Section 3103 of Title 68 of the Oklahoma Statutes.

15 SECTION 4. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 22-143 of Title 11, unless there
17 is created a duplication in numbering, reads as follows:

18 A. Any municipality to which this act applies may proceed with
19 judicial in rem foreclosures of municipal code liens in accordance
20 with the provisions of this act by enactment of an ordinance or
21 resolution of the governing authority of the municipality in which
22 the real property is located which ordinance or resolution shall be
23 sufficient authority for use of this act by the municipality to
24 enforce its municipal code liens.

1 B. The ordinance of a municipality authorizing and approving
2 the use of this act shall include all the following matters:

3 1. The initial effective date for application of these
4 procedures;

5 2. If the municipality elects not to apply these procedures to
6 all real properties as of the same future date, then the phase-in of
7 these procedures over a period of time and the manner of
8 determination of which real properties are subject to these
9 procedures;

10 3. The explicit exclusion of owner-occupied properties from the
11 application of the judicial in rem foreclosure procedures authorized
12 in this act;

13 4. The nature and extent of notices, support services, and
14 referrals to be provided to the owners and occupants of owner-
15 occupied properties; and

16 5. Any other matters the municipality specifies to be addressed
17 through administrative regulations and policies.

18 C. Proceedings in accordance with this act are designed solely
19 to enforce the municipal code lien for real property subject to the
20 municipal code lien and shall not constitute an action for personal
21 liability for the municipal code liens against the owner or owners
22 of the real property.

23 D. The rights and remedies set forth in this act are available
24 solely to the governmental entities authorized by law to enforce

1 municipal ordinances and shall not extend to any nongovernmental
2 transferee of municipal code liens.

3 E. A municipality that has adopted the provisions of this act
4 and that seeks to enforce a municipal code lien through the sale of
5 real property shall utilize the judicial in rem proceedings of this
6 act as the sole remedy for the enforcement through the sale of real
7 property.

8 F. The enforcement proceedings authorized by this act may be
9 initiated only by the municipality.

10 SECTION 5. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 22-144 of Title 11, unless there
12 is created a duplication in numbering, reads as follows:

13 A. After a municipal code lien has been recorded with the
14 office of the county clerk of the county in which the real property
15 lies, the code enforcement director may identify those properties on
16 which to commence a judicial in rem foreclosure in accordance with
17 this act, except that those properties the code enforcement director
18 identifies as owner-occupied shall not be subject to judicial in rem
19 foreclosure under this act. The code enforcement director shall not
20 file a petition for judicial in rem foreclosure in accordance with
21 this act for a period of six (6) months following the date upon
22 which the municipal code lien is recorded in the office of the
23 county clerk. A petition for judicial in rem foreclosure may
24 include any other municipal code lien that has been filed prior to

1 the date the petition is filed. After enforcement proceedings have
2 commenced in accordance with this act, the enforcement proceedings
3 may be amended to include any subsequently arising municipal code
4 liens and, if applicable, any and all taxes as defined in this act.

5 B. If the property on which the municipality is seeking to
6 foreclose under this act is subject to taxes as defined in this act,
7 then at least sixty (60) days prior to the filing of the petition,
8 the code enforcement director shall notify all other taxing agencies
9 within the jurisdiction of the municipality, and the State of
10 Oklahoma of the code enforcement director's intention to file a
11 petition for judicial in rem foreclosure of the real property on
12 which a municipal code lien exists.

13 C. The code enforcement director in the name of the
14 municipality shall record in the appropriate lis pendens record in
15 the office of the county clerk of the county in which the real
16 property is located, a notice of his or her intent to file a
17 judicial in rem foreclosure action. The notice shall include a
18 legal description of the property, street address of the property if
19 available, a statement that the property is subject to judicial in
20 rem foreclosure proceedings under this act, and a statement that
21 those proceedings may extinguish any legal interests in the
22 property.

23 D. Simultaneous with the filing of his or her notice of intent
24 to file a judicial in rem foreclosure action, the code enforcement

1 director in the name of the municipality shall file a petition with
2 the clerk of the district court for the district in which the real
3 property is located.

4 E. The petition shall be filed against the real property
5 against which the municipal code lien has been recorded and shall
6 provide all of the following:

7 1. The identity of the municipality and the name and address of
8 the code enforcement director;

9 2. The real property address;

10 3. A description of the real property;

11 4. The tax identification number of the real property;

12 5. The municipal code lien which is being foreclosed;

13 6. The principal amount of the municipal code lien together
14 with applicable interest and penalties;

15 7. The principal amount of any additional municipal code liens
16 together with applicable interest and penalties in
17 accordance with subsection A of this section if any;

18 8. The year or years for which the taxes are delinquent, if
19 any;

20 9. The principal amount of the taxes together with interest and
21 penalties, if any;

22 10. A statement that upon final sale in accordance with this
23 act and payment of the amounts due for taxes, if applicable, an
24 interested party's rights of redemption shall be extinguished; and

1 11. The names and addresses of all interested parties to whom
2 copies of the petition are to be sent in accordance with subsection
3 F of this section.

4 F. The municipality shall mail copies of the petition by both
5 certified mail, return receipt requested, and by regular mail to all
6 interested parties whose identity and address are reasonably
7 ascertainable. Copies of the petition shall also be mailed by
8 first-class mail to the real property address to the attention of
9 the occupants of the property, if any. In addition, notice shall be
10 physically posted on the real property and shall include the
11 following statement: "THIS PROPERTY IS SUBJECT TO A JUDICIAL IN REM
12 FORECLOSURE ACTION AND MAY BE TRANSFERRED TO [NAME OF MUNICIPALITY]
13 OR ANOTHER PARTY. PERSONS WITH INFORMATION REGARDING THE CURRENT
14 OWNER OF THE PROPERTY ARE REQUESTED TO CONTACT [NAME OF
15 MUNICIPALITY]."

16 G. Within thirty (30) days of the filing of the petition, the
17 municipality shall cause a notice of the filing of the petition to
18 be published once each week for three (3) consecutive weeks in a
19 newspaper of general circulation in the county in which the property
20 is located. Such notice shall specify:

- 21 1. The name and address of the code enforcement director;
- 22 2. The real property address;
- 23 3. A description of the real property;
- 24 4. The tax identification number of the real property;

- 1 5. Any applicable municipal code lien which is being foreclosed
2 upon;
- 3 6. The principal amount of any municipal code lien together
4 with interest and penalties;
- 5 7. The applicable period of tax delinquency, if any;
- 6 8. The principal amount of taxes, if any;
- 7 9. Upon deposit with the appropriate parties by the court of
8 the tax payoff amounts, if any, any and all rights of redemption
9 accorded to interested parties are extinguished; and
- 10 10. The date and place of the filing of the petition;

11 SECTION 6. REPEALER 11 O.S. 2011, Section 22-111, as
12 amended by Section 1, Chapter 136, O.S.L. 2012 (11 O.S. Supp. 2020,
13 Section 22-111), is hereby repealed.

14 SECTION 7. REPEALER 11 O.S. 2011, Section 22-112, is
15 hereby repealed.

16 SECTION 8. This act shall become effective November 1, 2021.

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