

1 ENGROSSED HOUSE
2 BILL NO. 2423

By: Nichols, Lawson and Moore
of the House

3 and

4 Montgomery of the Senate
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8 [cities and towns - providing that any fees,
9 penalties and abatement costs imposed against
10 property for violations of a municipality's housing
11 and building codes may be enforced in rem as a lien
12 - providing notice requirements needed prior to a
13 judicial in rem foreclosure - effective date]
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16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

20 As used in this act, the following words and phrases shall have
21 the following meanings:

22 1. "Code enforcement director" is an employee of the
23 municipality who is tasked by the municipal governing body with the
24 enforcement of state law or local ordinances related to the

1 condition of real property within the jurisdiction of the
2 municipality;

3 2. "Interested party" means:

- 4 a. the person who last appears as owner of the real
5 property in the county records,
- 6 b. the current mortgagee of record of the property or
7 assignee of record of the mortgagee,
- 8 c. the current holder of a beneficial interest in a deed
9 of trust recorded against the real property,
- 10 d. a tax certificate holder, or
- 11 e. any party having an interest in the real property, or
12 in any part thereof, legal or equitable, in severalty
13 or as tenant in common, whose identity and addresses
14 are reasonably ascertainable from the records of the
15 municipality or records maintained in the county
16 records or as revealed by a full title search,
17 consisting of fifty (50) years or more.

18 An interested party shall not include the holder of the benefit
19 of an easement which burdens the real property, the holder of the
20 benefit or burden of a real covenant which burdens the real
21 property, or the holder of the benefit of a utility easement which
22 burdens the real property;

23 3. "Minimum bid price" means the price that equals the
24 redemption amount;

1 4. "Municipal code lien" means any lien that has been levied
2 against real property by a municipality that is the result of the
3 nonpayment of any fine, penalty, abatement cost or enforcement cost
4 incurred by a municipality related to the enforcement of state or
5 local housing and building codes. Such lien shall include only
6 those liens which arise out of a failure to comply with any law of
7 the State of Oklahoma, or from the failure to comply with a
8 municipality's ordinances or resolutions.

9 A municipal code lien shall not include any lien that has
10 previously been certified to the tax collector of the county for
11 inclusion on the property tax bill associated with the real
12 property;

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

22 6. "Owner-occupied" means real property that is lawfully
23 occupied as a principal residence that is any of the following:
24

- 1 a. a homestead as described in Section 2888 of Title 68
- 2 of the Oklahoma Statutes,
- 3 b. exempt from ad valorem taxation under Sections 2904
- 4 through 2911 of Title 68 of the Oklahoma Statutes, and
- 5 c. eligible for the designations listed in subparagraph a
- 6 or b or this paragraph, but which has not yet been
- 7 granted such designation and which is lawfully
- 8 occupied by the family of a deceased individual;

9 7. "Redemption amount" means the sum of:

- 10 a. the full amount of the municipal code lien payoff for
- 11 each municipal code lien on which the municipality is
- 12 seeking to foreclose under this act, and
- 13 b. any tax payoff that may be applicable to the property
- 14 on which the municipality is seeking to foreclose
- 15 under this act;

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

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

- 2 a. a tax sale purchaser that holds a certificate of
- 3 purchase,
- 4 b. the state, where it has accepted and recorded a
- 5 certificate of purchase obtained at a tax sale,
- 6 c. any party to which a certificate of purchase obtained
- 7 at a tax sale has been assigned, or
- 8 d. the purchaser or assignee of a tax lien certificate;
- 9 and

10 10. "Tax payoff" means all amounts necessary to satisfy any
11 claims for delinquent taxes assessed against the real property on
12 which the municipality is seeking foreclosure under this act. Those
13 amounts shall include:

- 14 a. if the taxes associated with the property are
- 15 delinquent, but the property has not yet been sold for
- 16 taxes, the full amount of delinquent taxes, costs,
- 17 fees and charges due to the county tax collector,
- 18 b. if the property has been sold for taxes to either the
- 19 state or to a party other than the state, those
- 20 amounts required for redemption, except for when a
- 21 municipality is the prevailing bidder, the tax payoff
- 22 amount shall be the lesser of these amounts, and
- 23 c. if a tax lien has been sold by a county, the amount
- 24 required for redemption.

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

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

8 B. The provisions of this act shall not apply to owner-occupied
9 property.

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

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

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

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

1 A. Any municipality to which this act applies may proceed with
2 judicial in rem foreclosures of municipal code liens in accordance
3 with the provisions of this act by enactment of an ordinance or
4 resolution of the governing authority of the municipality in which
5 the real property is located which ordinance or resolution shall be
6 sufficient authority for use of this act by the municipality to
7 enforce its municipal code liens.

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

10 1. The initial effective date for application of these
11 procedures;

12 2. If the municipality elects not to apply these procedures to
13 all real properties as of the same future date, then the phase-in of
14 these procedures over a period of time and the manner of
15 determination of which real properties are subject to these
16 procedures;

17 3. The explicit exclusion of owner-occupied properties from the
18 application of the judicial in rem foreclosure procedures authorized
19 in this act;

20 4. The nature and extent of notices, support services, and
21 referrals to be provided to the owners and occupants of owner-
22 occupied properties; and

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

1 C. Proceedings in accordance with this act are designed solely
2 to enforce the municipal code lien for real property subject to the
3 municipal code lien and shall not constitute an action for personal
4 liability for the municipal code liens against the owner or owners
5 of the real property.

6 D. The rights and remedies set forth in this act are available
7 solely to the governmental entities authorized by law to enforce
8 municipal ordinances and shall not extend to any nongovernmental
9 transferee of municipal code liens.

10 E. A municipality that has adopted the provisions of this act
11 and that seeks to enforce a municipal code lien through the sale of
12 real property shall utilize the judicial in rem proceedings of this
13 act as the sole remedy for the enforcement through the sale of real
14 property.

15 F. The enforcement proceedings authorized by this act may be
16 initiated only by the municipality.

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

20 A. After a municipal code lien has been recorded with the
21 office of the county clerk of the county in which the real property
22 lies, the code enforcement director may identify those properties on
23 which to commence a judicial in rem foreclosure in accordance with
24 this act, except that those properties the code enforcement director

1 identifies as owner-occupied shall not be subject to judicial in rem
2 foreclosure under this act. The code enforcement director shall not
3 file a petition for judicial in rem foreclosure in accordance with
4 this act for a period of six (6) months following the date upon
5 which the municipal code lien is recorded in the office of the
6 county clerk. A petition for judicial in rem foreclosure may
7 include any other municipal code lien that has been filed prior to
8 the date the petition is filed. After enforcement proceedings have
9 commenced in accordance with this act, the enforcement proceedings
10 may be amended to include any subsequently arising municipal code
11 liens and, if applicable, any and all taxes as defined in this act.

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

20 C. The code enforcement director in the name of the
21 municipality shall in the appropriate lis pendens record in the
22 office of the county clerk of the county in which the real property
23 is located, a notice of his or her intent to file a judicial in rem
24 foreclosure action. The notice shall include a legal description of

1 the property, street address of the property if available, a
2 statement that the property is subject to judicial in rem
3 foreclosure proceedings under this act, and a statement that those
4 proceedings may extinguish any legal interests in the property.

5 D. Simultaneous with the filing of his or her notice of intent
6 to file a judicial in rem foreclosure action, the code enforcement
7 director in the name of the municipality shall file a petition with
8 the clerk of the district court for the district in which the real
9 property is located.

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

- 13 1. The identity of the municipality and the name and address of
14 the code enforcement director;
- 15 2. The real property address;
- 16 3. A description of the real property;
- 17 4. The tax identification number of the real property;
- 18 5. The municipal code lien which is being foreclosed;
- 19 6. The principal amount of the municipal code lien together
20 with applicable interest and penalties;
- 21 7. The principal amount of any additional municipal code liens
22 together with applicable interest and penalties in accordance with
23 subsection A of this section if any;

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

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

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

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

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

23 G. Within thirty (30) days of the filing of the petition, the
24 municipality shall cause a notice of the filing of the petition to

1 be published once each week for three (3) consecutive weeks in a
2 newspaper of general circulation in the county in which the property
3 is located. Such notice shall specify:

- 4 1. The name and address of the code enforcement director;
- 5 2. The real property address;
- 6 3. A description of the real property;
- 7 4. The tax identification number of the real property;
- 8 5. Any applicable municipal code lien which is being foreclosed
9 upon;
- 10 6. The principal amount of any municipal code lien together
11 with interest and penalties;
- 12 7. The applicable period of tax delinquency, if any;
- 13 8. The principal amount of taxes, if any;
- 14 9. Upon deposit with the appropriate parties by the court of
15 the tax payoff amounts, if any, any and all rights of redemption
16 accorded to interested parties are extinguished; and
- 17 10. The date and place of the filing of the petition.

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

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

23 SECTION 8. This act shall become effective November 1, 2021.
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1 Passed the House of Representatives the 11th day of March, 2021.

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4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2021.

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9 Presiding Officer of the Senate