

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2423

By: Nichols

4  
5  
6 AS INTRODUCED

7 An Act relating to cities and towns; defining terms;  
8 providing applicability to all municipalities;  
9 providing does not apply to owner occupied property;  
10 providing that any fees, penalties and abatement  
11 costs imposed against property for violations of a  
12 municipality's housing and building codes may be  
13 enforced in rem as a lien; providing that  
14 municipalities may proceed with judicial in rem  
15 foreclosures of municipal code liens by an enactment  
16 of an ordinance or resolution of the governing  
17 authority of the municipality in which the real  
18 property is located; providing requirements for a  
19 municipal ordinance authorizing liens and  
20 foreclosures pursuant to this act; providing this act  
21 does not constitute an action for personal liability  
22 for the municipal code liens against the owner or  
23 owners of the real property; providing that the  
24 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  
filling 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; and providing an  
effective date.

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

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

5 As used in this act, the following words and phrases shall have  
6 the following meanings:

7 1. "Code Enforcement Director" is an employee of the  
8 municipality who is tasked by the municipal governing body with the  
9 enforcement of state law or local ordinances related to the  
10 condition of real property within the jurisdiction of the  
11 municipality;

12 2. "Interest Party" means:

- 13 a. the person who last appears as owner of the real  
14 property in the county records,
- 15 b. the current mortgagee of record of the property or  
16 assignee of record of the mortgagee,
- 17 c. the current holder of a beneficial interest in a deed  
18 of trust recorded against the real property,
- 19 d. a tax certificate holder, or
- 20 e. any party having an interest in the real property, or  
21 in any part thereof, legal or equitable, in severalty  
22 or as tenant in common, whose identity and addresses  
23 are reasonably ascertainable from the records of the  
24 municipality or records maintained in the county

1 records or as revealed by a full title search,  
2 consisting of (fifty) 50 years or more;

3 An Interested Party shall not include the holder of the benefit  
4 of an easement which burdens the real property, the holder of the  
5 benefit or burden of a real covenant which burdens the real  
6 property, or the holder of the benefit of a utility easement which  
7 burdens the real property.

8 3. "Minimum Bid Price" means the price that the Redemption  
9 Amount;

10 4. "Municipal Code Lien" means any lien that has been levied  
11 against real property by a municipality that is the result of the  
12 non-payment of any fine, penalty, abatement cost, or enforcement  
13 cost incurred by a municipality related to the enforcement of state  
14 or local housing and building codes. Such lien shall include only  
15 those liens which arise out of a failure to comply with any law of  
16 the State of Oklahoma, or from the failure to comply with a  
17 municipality's ordinance or resolutions;

18 A municipal code lien shall not include any lien that has  
19 previously been certified to the tax collector of the county for  
20 inclusion on the property tax bill associated with the real  
21 property.

22 5. "Municipal Code Lien Payoff" means the principal amount of a  
23 municipal code lien, interest accrued at the rate of seven and one-  
24 half percent per annum from the date the municipal code lien was

1 filed in the office of county clerk, any fees or costs incurred in  
2 the collection of such a lien under this act including, without  
3 limitations, the cost of title examinations and publication of  
4 notices, and any other penalties allowable under either the laws of  
5 the state of Oklahoma or under an ordinance or resolution enacted by  
6 the municipality;

7 6. "Owner Occupied" means real property that is lawfully  
8 occupied as a principal residence that is any of the following:

- 9 a. a homestead as described in Section 2888 of Title 68  
10 of the Oklahoma Statutes,  
11 b. exempt from ad valorem taxation under Sections 2904  
12 through 2911 of Title 68 of the Oklahoma Statutes, and  
13 c. eligible for the designations listed in subdivisions a  
14 or b, but which has not yet been granted such  
15 designation and which is lawfully occupied by the  
16 family of a deceased individual;

17 7. "Redemption Amount" means the sum of:

- 18 a. the full amount of the municipal code lien payoff for  
19 each municipal code lien on which the municipality is  
20 seeking to foreclose under this act, and  
21 b. any tax payoff that may be applicable to the property  
22 on which municipality is seeking to foreclose under  
23 this act.

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

11       9. "Tax Certificate Holder" means any of the following:

12           a. a tax sale purchaser that holds a certificate of  
13 purchase,

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

16           c. any party to which a certificate of purchase obtained  
17 at a tax sale has been assigned to, or

18           d. the purchaser or assignee of a tax lien certificate;

19       10. "Tax Payoff" means any all amounts necessary to satisfy any  
20 claims for delinquent taxes assessed against the real property on  
21 which the municipality is seeking to foreclosure under this act.

22 Those amounts shall include:

23           a. if the taxes associated with the property are  
24 delinquent, but the property has not yet been sold for

1 taxes, then the full amount of delinquent taxes,  
2 costs, fees and charges due to the county tax  
3 collector,

4 b. if the property has been sold for taxes to either the  
5 state or to a party other than the state, then those  
6 amounts required for, and

7 c. if a tax lien has been sold by a county, then the  
8 amount required for redemption.

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

12 1. The provisions of this act shall apply to any municipal  
13 governing body that adopts the provisions of this act to be  
14 applicable to the collection of municipal code liens as to real  
15 property, other than owner occupied property, in the municipality;  
16 and

17 2. The provisions of this act shall not apply to owner occupied  
18 property;

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

22 Notwithstanding any law to the contrary, any fees, penalties and  
23 abatement costs imposed against property other than Owner Occupied  
24 real property for violations of a municipality's housing and

1 building codes adopted pursuant to the statutes of the state of  
2 Oklahoma, may be enforced in rem as a lien in accordance with this  
3 act.

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

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

10 A. Any municipality to which this act applies may proceed with  
11 judicial in rem foreclosures of municipal code liens in accordance  
12 with the provisions of this act by enactment of an ordinance or  
13 resolution of the governing authority of the municipality in which  
14 the real property is located which ordinance or resolution shall be  
15 sufficient authority for use of this act by the municipality to  
16 enforce its municipal code liens.

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

19 1. The initial effective date for application of these  
20 procedures;

21 2. If the municipality elects not to apply these procedures to  
22 all real properties as of the same future date, then the phase-in of  
23 these procedures over a period of time and the manner of  
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1 determination of which real properties are subject in which sequence  
2 to these procedures;

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

6 4. The nature and extent of notices, support services, and  
7 referrals to be provided to the owners and occupants of owner-  
8 occupied properties; and

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

11 C. Proceedings in accordance with this act are designed solely  
12 to enforce the municipal code lien for real property subject to the  
13 municipal code lien and shall not constitute an action for personal  
14 liability for the municipal code liens against the owner or owners  
15 of the real property.

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

20 E. A municipality that has adopted the provisions of this act  
21 and that seeks to enforce a municipal code lien through the sale of  
22 real property shall utilize the judicial in rem proceedings of this  
23 act as the sole remedy for the enforcement through the sale of real  
24 property.



1 F. The enforcement proceedings authorized by this act may be  
2 initiated only by the municipality.

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

6 A. After a municipal code lien has been recorded with the  
7 office of the County Clerk of the county in which the real property  
8 lies, the code enforcement director may identify those properties on  
9 which to commence a judicial in rem foreclosure in accordance with  
10 this act, except that those properties the code enforcement director  
11 identifies as owner occupied shall not be subject to judicial in rem  
12 foreclosure under this act. The code enforcement director shall not  
13 file a petition for judicial in rem foreclosure in accordance with  
14 this act for a period of six (6) months following the date upon  
15 which the municipal code lien is recorded in the office of the  
16 County Clerk. A petition for judicial in rem foreclosure may  
17 include any other municipal code lien that has been filed prior to  
18 the date the petition is filed. After enforcement proceedings have  
19 commenced in accordance with this act, the enforcement proceedings  
20 may be amended to include any subsequently arising municipal code  
21 liens and, if applicable, any and all taxes as defined in this act.

22 B. If the property on which the municipality is seeking to  
23 foreclose under this act is subject to taxes as defined in this act,  
24 then at least sixty (60) days prior to the filing of the petition,

1 the code enforcement director shall notify all other taxing agencies  
2 within the jurisdiction of the municipality, and the State of  
3 Oklahoma of the code enforcement director's intention to file a  
4 petition for judicial in rem foreclosure of the real property on  
5 which a municipal code liens exists.

6 C. The code enforcement director in the name of the  
7 municipality shall record in the appropriate lis pendens record in  
8 the office of the County Clerk of the county in which the real  
9 property is located, a notice of his or her intent to file a  
10 judicial in rem foreclosure action. The notice shall include a  
11 legal description of the property, street address of the property if  
12 available, a statement that the property is subject to judicial in  
13 rem foreclosure proceedings under this act, and a statement that  
14 those proceedings may extinguish any legal interests in the  
15 property.

16 D. Simultaneous with the filing of his or her notice of intent  
17 to file a judicial in rem foreclosure action, the code enforcement  
18 director in the name of the municipality shall file a petition with  
19 the clerk of the district court for the district in which the real  
20 property is located.

21 E. The petition shall be filed against the real property  
22 against which the municipal code lien has been recorded and shall  
23 provide all of the following:  
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- 1        1. The identity of the municipality and the name and address of  
2 the code enforcement director;
- 3        2. The real property address;
- 4        3. A description of the real property;
- 5        4. The tax identification number of the real property;
- 6        5. The municipal code lien which is being foreclosed;
- 7        6. The principal amount of the municipal code lien together  
8 with applicable interest and penalties;
- 9        7. The principal amount of any additional municipal code liens  
10 together with applicable interest and penalties in  
11 accordance with subsection A if any;
- 12       8. The year or years for which the taxes are delinquent, if  
13 any;
- 14       9. The principal amount of the taxes together with interest and  
15 penalties, if any;
- 16       10. A statement that upon final sale in accordance with this  
17 act and payment of the amounts due for taxes, if applicable, an  
18 interested party's rights of redemption, shall be extinguished; and
- 19       11. The names and addresses of all interested parties to whom  
20 copies of the petition are to be sent in accordance with subsection  
21 F.
- 22       F. The municipality shall mail copies of the petition by both  
23 certified mail, return receipt requested, and by regular mail to all  
24 interested parties whose identity and address are reasonably

1 ascertainable. Copies of the petition shall also be mailed by  
2 first-class mail to the real property address to the attention of  
3 the occupants of the property, if any. In addition, notice shall be  
4 physically posted on the real property and shall include the  
5 following statement: "THIS PROPERTY IS SUBJECT TO A JUDICIAL IN REM  
6 FORECLOSURE ACTION AND MAY BE TRANSFERRED TO [NAME OF MUNICIPALITY]  
7 OR ANOTHER PARTY. PERSONS WITH INFORMATION REGARDING THE CURRENT  
8 OWNER OF THE PROPERTY ARE REQUESTED TO CONTACT [NAME OF  
9 MUNICIPALITY]."

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

- 15 1. The name and address of the code enforcement director;
- 16 2. The real property address;
- 17 3. A description of the real property;
- 18 4. The tax identification number of the real property;
- 19 5. Any applicable municipal code lien which is being foreclosed  
20 upon;
- 21 6. The principal amount of any municipal code lien together  
22 with interest and penalties;
- 23 7. The applicable period of tax delinquency, if any;
- 24 8. The principal amount of taxes, if any;

1 9. Upon deposit with the appropriate parties by the court of  
2 the Tax Payoff amounts, if any, any and all rights of redemption  
3 accorded to interested parties are extinguished; and

4 10. The date and place of the filing of the petition;

5 SECTION 6. This act shall become effective November 1, 2021.

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