

LIENS

§42-141. Right to lien - Priority - Enforceability against property - Constructive notice.

Any person who shall, under oral or written contract with the owner of any tract or piece of land, perform labor, furnish material or lease or rent equipment used on said land for the erection, alteration or repair of any building, improvement or structure thereon or perform labor in putting up any fixtures, machinery in, or attachment to, any such building, structure or improvements; or who shall plant any tree, vines, plants or hedge in or upon such land; or who shall build, alter, repair or furnish labor, material or lease or rent equipment used on said land for buildings, altering, or repairing any fence or footwalk in or upon said land, or any sidewalk in any street abutting such land, shall have a lien upon the whole of said tract or piece of land, the buildings and appurtenances. If the title to the land is not in the person with whom such contract was made, the lien shall be allowed on the buildings and improvements on such land separately from the real estate. Such liens shall be preferred to all other liens or encumbrances which may attach to or upon such land, buildings or improvements or either of them subsequent to the commencement of such building, the furnishing or putting up of such fixtures or machinery, the planting of such trees, vines, plants or hedges, the building of such fence, footwalk or sidewalks, or the making of any such repairs or improvements; and such lien shall follow said property and each and every part thereof, and be enforceable against the said property wherever the same may be found, and compliance with the provisions of this act shall constitute constructive notice of the claimant's lien to all purchasers and encumbrancers of said property or any part thereof, subsequent to the date of the furnishing of the first item of material or the date of the performance of the first labor or the first use of the rental equipment on said land.

R.L. 1910, § 3862; Laws 1919, c. 258, p. 367, § 1; Laws 1923, c. 54, p. 97, § 1; Laws 1977, c. 207, § 6, eff. Oct. 1, 1977; Laws 1980, c. 216, § 1, emerg. eff. May 30, 1980.

§42-141.1. Transfer of records, funds, and powers and duties to county clerk.

On the effective date of this act, the records, funds and powers and duties relating to the filing of mechanics' and materialmen's liens in the office of the court clerk in

each county of this state shall be transferred to the office of the county clerk. The county clerk shall thereafter exercise all such powers and duties formerly performed by the court clerk relating to such liens. Laws 1977, c. 207, § 3, eff. Oct. 1, 1977.

§42-142. Statement to be filed.

Any person claiming a lien as aforesaid shall file in the office of the county clerk of the county in which the land is situated a statement setting forth the amount claimed and the items thereof as nearly as practicable, the names of the owner, the contractor, the claimant, and a legal description of the property subject to the lien, verified by affidavit. Such statement shall be filed within four (4) months after the date upon which material or equipment used on said land was last furnished or labor last performed under contract as aforesaid; and if the claim be for the planting of any trees, vines, plants, or hedge, such statement shall be filed within four (4) months from such planting. Immediately upon the receipt of such statement the county clerk shall enter a record of the same against the tract index and in a book kept for that purpose, to be called the mechanics' lien journal, which shall be ruled off into separate columns, with headings as follows: "When filed", "Name of owner", "Name of claimant", "Amount claimed", "Legal description of property", and "Remarks", and the clerk shall make the proper entry in each column.

R.L. 1910, § 3863; Laws 1977, c. 207, § 7, eff. Oct 1, 1977; Laws 1978, c. 133, § 3, eff. Oct. 1, 1978; Laws 1980, c. 216, § 2, emerg. eff. May 30, 1980.

§42-142.1. Enforcement of lien against owner-occupied dwelling - Notice to owner.

No lien arising under the provisions of Sections 141 through 153 of this title which affects property presently occupied as a dwelling by an owner shall be enforceable unless, prior to the first performance of labor or the first furnishing of materials by the lien claimant, the original contractor, subcontractor, laborer, or materialman shall have provided to one of the owners a written notice which shall include substantially the following language:

NOTICE TO OWNER

YOU ARE HEREBY NOTIFIED THAT ANY PERSON PERFORMING LABOR ON YOUR PROPERTY OR FURNISHING MATERIALS FOR THE CONSTRUCTION, REPAIR, OR IMPROVEMENT OF YOUR PROPERTY WILL

BE ENTITLED TO A LIEN AGAINST YOUR PROPERTY IF HE IS NOT PAID IN FULL, EVEN THOUGH YOU MAY HAVE PAID THE FULL CONTRACT PRICE TO YOUR CONTRACTOR. THIS COULD RESULT IN YOUR PAYING FOR LABOR AND MATERIALS TWICE. THIS LIEN CAN BE ENFORCED BY THE SALE OF YOUR PROPERTY. TO AVOID THIS RESULT, YOU MAY DEMAND FROM YOUR CONTRACTOR LIEN WAIVERS FROM ALL PERSONS PERFORMING LABOR OR FURNISHING MATERIALS FOR THE WORK ON YOUR PROPERTY. YOU MAY WITHHOLD PAYMENT TO THE CONTRACTOR IN THE AMOUNT OF ANY UNPAID CLAIMS FOR LABOR OR MATERIALS. YOU ALSO HAVE THE RIGHT TO DEMAND FROM YOUR CONTRACTOR A COMPLETE LIST OF ALL LABORERS AND MATERIAL SUPPLIERS UNDER YOUR CONTRACT, AND THE RIGHT TO DETERMINE FROM THEM IF THEY HAVE BEEN PAID FOR LABOR PERFORMED AND MATERIALS FURNISHED.

Laws 1980, c. 359, § 1, eff. Oct. 1, 1980; Laws 1982, c. 247, § 1, operative Oct. 1, 1982.

§42-142.2. Repealed by Laws 2005, c. 477, § 3, eff. Nov. 1, 2005.

§42-142.3. Person deemed not to be original contractor, laborer or materialman.

Any person who performs labor directly for or furnishes material directly to an owner of property used by the owner or a co-owner as a dwelling, under circumstances which an owner is liable directly to a laborer or supplier, shall not be deemed an original contractor, laborer or materialman for purposes of Sections 142.1 through 142.5 of this title.

Added by Laws 1980, c. 359, § 3, eff. Oct. 1, 1980.

Amended by Laws 1995, c. 160, § 1, eff. Nov. 1, 1995.

§42-142.4. Fraudulent statement - Felony.

Any original contractor who falsifies any statement regarding liens on labor or material to any owner of a dwelling, upon conviction, shall be guilty of a felony.

Added by Laws 1980, c. 359, § 4, eff. Oct. 1, 1980.

Amended by Laws 1997, c. 133, § 458, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 458 from July 1, 1998, to July 1, 1999.

§42-142.5. Satisfaction of notice.

The written notice required in Section 1 of this act shall be satisfied by furnishing one notice during the course of construction or during the course of the business transaction in which the labor or materials are furnished. Laws 1980, c. 359, § 5, eff. Oct. 1, 1980.

§42-142.6. Pre-lien notice - Requirements - Affidavit - Penalties.

A. For the purposes of this section:

1. "Claimant" means a person, other than an original contractor, that is entitled or may be entitled to a lien pursuant to Section 141 of Title 42 of the Oklahoma Statutes; and

2. "Person" means any individual, corporation, partnership, unincorporated association, or other entity.

B. 1. Prior to the filing of a lien statement pursuant to Section 143.1 of Title 42 of the Oklahoma Statutes, but no later than seventy-five (75) days after the date of supply of material, services, labor, or equipment in which the claimant is entitled or may be entitled to lien rights, the claimant shall send to the last-known address of the original contractor and owner of the property a pre-lien notice pursuant to the provisions of this section.

2. The provisions of this section shall not be construed to require:

- a. a pre-lien notice with respect to any retainage held by agreement between an owner, contractor, or subcontractor, or
- b. more than one pre-lien notice during the course of a construction project in which material, services, labor, or equipment is furnished.

A pre-lien notice sent in compliance with this section for the supply of material, services, labor, or equipment that entitles or may entitle a claimant to lien rights shall protect the claimant's lien rights for any subsequent supply of material, services, labor, or equipment furnished during the course of a construction project.

3. The pre-lien notice requirements shall not apply to a claimant:

- a. whose claim relates to the supply of material, services, labor, or equipment furnished in connection with a residential project. For the purposes of this subparagraph, the term "residential" shall

- mean a single family or multifamily project of four or fewer dwelling units, or
- b. whose aggregate claim is less than Two Thousand Five Hundred Dollars (\$2,500.00).
4. The pre-lien notice shall be in writing and shall contain, but not be limited to, the following:
- a. a statement that the notice is a pre-lien notice,
 - b. the complete name, address, and telephone number of the claimant, or the claimant's representative,
 - c. the date of supply of material, services, labor, or equipment,
 - d. a description of the material, services, labor, or equipment,
 - e. the name and last-known address of the person who requested that the claimant provide the material, services, labor, or equipment,
 - f. the address, legal description, or location of the property to which the material, services, labor, or equipment has been supplied,
 - g. a statement that the dollar amount of the material, services, labor, or equipment furnished or to be furnished exceeds Two Thousand Five Hundred Dollars (\$2,500.00), and
 - h. the signature of the claimant, or the claimant's representative.

5. A rebuttable presumption of compliance with paragraph 1 of this subsection shall be created if the pre-lien notice is sent as follows:

- a. hand delivery supported by a delivery confirmation receipt,
- b. automated transaction pursuant to Section 15-115 of Title 12A of the Oklahoma Statutes, or
- c. certified mail, return receipt requested. Notice by certified mail, return receipt requested, shall be effective on the date mailed.

6. The claimant may request in writing, the request to be sent in the manner as provided in paragraph 5 of this subsection, that the original contractor provide to the claimant the name and last-known address of the owner of the property. Failure of the original contractor to provide the claimant with the information requested within five (5) days from the date of receipt of the request shall

render the pre-lien notice requirement to the owner of the property unenforceable.

C. At the time of the filing of the lien statement, the claimant shall furnish to the county clerk a notarized affidavit verifying compliance with the pre-lien notice requirements of this section. Any claimant who falsifies the affidavit shall be guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of not more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

D. Failure of the claimant to comply with the pre-lien notice requirements of this section shall render that portion of the lien claim for which no notice was sent invalid and unenforceable.

Added by Laws 2001, c. 21, § 1, eff. July 1, 2001.

§42-143. Lien by or through subcontractor.

Any person who shall furnish any such material or lease or rent equipment used on said land or perform such labor as a subcontractor, or as an artisan or day laborer in the employ of the contractor, may obtain a lien upon such land, or improvements, or both, from the same time, in the same manner, and to the same extent as the original contractor, for the amount due him for such material, equipment and labor; and any artisan or day laborer in the employ of, and any person furnishing material or equipment used on said land to, such subcontractor may obtain a lien upon such land, or improvements, or both, for the same time, in the same manner, and to the same extent as the subcontractor, for the amount due him for such material, equipment used on said land and labor, by filing with the county clerk of the county in which the land is situated, within ninety (90) days after the date upon which material or equipment used on said land was last furnished or labor last performed under such subcontract, a statement, verified by affidavit, setting forth the amount due from the contractor to the claimant, and the items thereof, as nearly as practicable, the name of the owner, the name of the contractor, the name of the claimant, and a legal description of the property upon which a lien is claimed. Immediately upon the filing of such statement the county clerk shall enter a record of the same against the tract index and in the journal provided for in the preceding section, and in the manner therein specified. Provided further, that the owner of any land affected by such lien shall not thereby become liable to any claimant for any greater amount than he contracted

to pay the original contractor. The risk of all payments made to the original contractor shall be upon such owner until the expiration of the ninety (90) days herein specified, and no owner shall be liable to an action by such contractor until the expiration of said ninety (90) days, and such owner may pay such subcontractor the amount due him from such contractor for such labor, equipment used on said land and material, and the amount so paid shall be held and deemed a payment of said amount to the original contractor.

R.L. 1910, § 3864; Laws 1957, p. 417, § 1; Laws 1977, c. 207, § 8, eff. Oct. 1, 1977; Laws 1978, c. 133, § 4, eff. Oct. 1, 1978; Laws 1980, c. 216, § 3, emerg. eff. May 30, 1980.

§42-143.1. Notice - Filing of lien statement - Fees.

A. Within one (1) business day after the date of the filing of the lien statement provided for in Sections 142 and 143 of this title, a notice of the lien shall be mailed by certified mail, return receipt requested, to the owner of the property on which the lien attaches. The claimant shall furnish to the county clerk the last-known mailing address of the person or persons against whom the claim is made and the owner of the property. The notice shall be mailed by the county clerk. The fee for preparing and mailing the notice of mechanics' and materialmen's lien and costs for each additional page or exhibit shall be as provided for in Section 32 of Title 28 of the Oklahoma Statutes and shall be paid by the person filing the lien. The fee shall be deposited into the County Clerk's Lien Fee Account, created pursuant to the provisions of Section 265 of Title 19 of the Oklahoma Statutes.

B. The notice shall contain the date of filing; the name and address of the following: The person claiming the lien; the person against whom the claim is made and the owner of the property; a legal description of the property; and the amount claimed. Provided that, if with due diligence the person against whom the claim is made or the owner of the property cannot be found, the claimant after filing an affidavit setting forth such facts may, within sixty (60) days of the filing of the lien statement, serve a copy of the notice upon the occupant of the property or the occupant of the improvements, as the case may be, in a like manner as is provided for service upon the owner thereof, or, if the same be unoccupied, the claimant may post a copy in a conspicuous place upon the property or any improvements thereon.

Added by Laws 1977, c. 207, § 9, eff. Oct. 1, 1977.
Amended by Laws 1979, c. 251, § 1, emerg. eff. June 5,
1979; Laws 1983, c. 51, § 1, emerg. eff. April 26, 1983;
Laws 1984, c. 268, § 5, eff. Nov. 1, 1984; Laws 1985, c.
166, § 4, operative July 1, 1985; Laws 1989, c. 366, § 2,
eff. Nov. 1, 1989; Laws 2000, c. 363, § 23, emerg. eff.
June 6, 2000; Laws 2001, c. 21, § 2, emerg. eff. April 3,
2001.

§42-143.2. Repealed by Laws 2005, c. 31, § 1, eff. Nov. 1,
2005.

§42-143.3. Leased or rented equipment - Exemption from
act.

The provisions of this act as relating to leased or
rented equipment shall not apply to real property qualified
for homestead exemption or real property used for
agricultural purposes or real property used for the
production of or growing of agricultural products.
Laws 1980, c. 216, § 5, emerg. eff. May 30, 1980; Laws
1984, c. 9, § 1, emerg. eff. March 12, 1984.

§42-143.4. Leased or rented equipment - Property used for
production of oil or gas.

The provisions of this act relating to leased or rented
equipment shall not apply to such equipment used for the
development or production of oil or gas, except insofar as
is specifically allowed by Section 144 of Title 42.
Laws 1980, c. 216, § 6, emerg. eff. May 30, 1980.

§42-144. Oil and gas well liens.

Any person, corporation, or copartnership who shall,
under contract, expressed or implied, with the owner of any
leasehold for oil and gas purposes, or the owner of any gas
pipeline or oil pipeline, or with the trustee or agent of
such owner, perform labor or services, including written
contracts for the services of a geologist or petroleum
engineer, or furnish material, machinery, and oil well
supplies used in the digging, drilling, torpedoing,
completing, operating, or repairing of any oil or gas well,
or who shall furnish any oil or gas well supplies, or
perform any labor in constructing or putting together any
of the machinery used in drilling, torpedoing, operating,
completing, or repairing of any gas well, or perform any
labor upon any oil well supplies, tools, and other articles
used in digging, drilling, torpedoing, operating,
completing, or repairing any oil or gas well, shall have a
lien upon the whole of such leasehold or oil pipeline, or

gas pipeline, or lease for oil and gas purposes, the buildings and appurtenances, the proceeds from the sale of oil or gas produced therefrom inuring to the working interest, exempting, however, any valid, bona fide reservations of oil or gas payments or overriding royalty interests executed in good faith and payable out of such working interest, and upon the material and supplies so furnished, and upon any oil well supplies, tools, and other articles used in digging, drilling, torpedoing, operating, completing, or repairing any oil or gas well, and upon the oil or gas well for which they were furnished, and upon all the other oil or gas well fixtures and appliances used in the operating for oil and gas purposes upon the leasehold for which said material and supplies were furnished or labor or services performed. Such lien shall be preferred to all other liens or encumbrances which may attach to or upon said leasehold for gas and oil purposes and upon any oil or gas pipeline, or such oil and gas wells and the material and machinery so furnished and the leasehold for oil and gas purposes and the fixtures and appliances thereon subsequent to the commencement of or the furnishing or putting up of any such machinery or supplies; and such lien shall follow said property and each and every part thereof, and be enforceable against the said property wherever the same may be found; and compliance with the provisions of this article shall constitute constructive notice of the lien claimant's lien to all purchasers and encumbrancers of said property or any part thereof, subsequent to the date of the furnishing of the first item of material or the date of the performance of the first labor or services.

R.L. 1910, § 3865; Laws 1919, c. 258, p. 367, § 2; Laws 1927, c. 42, p. 64, § 1; Laws 1963, c. 226, § 1.

§42-144.1. Effectiveness of lien against purchaser -
Delivery of copy of statement of lien.

No lien claimed by virtue of this act, insofar as it may extend to the proceeds from the sale of oil or gas produced from such lease, shall be effective against any purchaser of such oil or gas until a copy of the statement of lien claim required to be filed by the provisions of this chapter has been delivered to such purchaser by registered or certified mail.

Laws 1963, c. 226, § 2.

§42-144.2. Trust funds for payment of lienable claims.

A. Except as provided by subsection D of this section, the amount payable under any oil and gas well drilling contract, reworking contract, operating agreement, or monies payable as a condition of participation in the drilling of an oil and gas well under the terms of a pooling order issued by the Oklahoma Corporation Commission shall, upon receipt by any oil and gas well operator, contractor or subcontractor, be held by such operator as trust funds for the payment of all lienable claims due and owing by such operator, contractor or subcontractor by reason of such drilling contract, reworking contract, operating agreement, or force pooling order.

B. The trust funds created under subsection A of this section shall be applied to the payment of said valid lienable claims and no portion thereof shall be used for any other purpose until all lienable claims due and owing or to become due and owing shall have been paid.

C. The existence of such trust funds shall not prohibit the filing or enforcement of any labor, mechanic or materialmen's lien against the affected real property by any lien claimant, nor shall the filing of such a lien release the holder of such funds from the obligations created under this section.

D. The provisions of this section shall not be applicable or affect payments owed to royalty owners by the operator of an oil or gas well and shall not affect or alter the terms or provisions of Section 87.1 of Title 52 of the Oklahoma Statutes.

Added by Laws 1986, c. 176, § 11, emerg. eff. May 15, 1986.
Amended by Laws 1997, c. 133, § 459, eff. July 1, 1999;
Laws 2002, c. 460, § 30, eff. Nov. 1, 2002.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 459 from July 1, 1998, to July 1, 1999.

§42-145. Oil and gas well lien by or through subcontractor.

Any person, copartnership or corporation who shall furnish such machinery or supplies to a subcontractor under a contractor, or any person who shall perform such labor under a subcontract with a contractor, or who, as an artisan or day laborer in the employ of such contractor, shall perform any such labor, may obtain a lien upon said leasehold for oil and gas purposes or any gas pipeline or any oil pipeline from the same tank and in the same manner and to the same extent as the original contractor for the

amount due him for such labor, as provided in the preceding section.

R.L. 1910, § 3866.

§42-146. Enforcement of lien on oil and gas wells.

The liens created by Sections 144 and 145 of this title shall be enforced pursuant to the provisions of Sections 171 through 178 of this title. Notice of the lien shall be given and the materialman's statement or the lien of any laborer shall be filed, in the same manner as is provided for in Sections 141 through 143.4 of this title, except that Section 142.6 of this title shall not apply to liens created pursuant to Sections 144 and 145 of this title and the statement required to be filed in the office of the county clerk pursuant to Section 143 of this title as to liens created pursuant to Sections 144 and 145 of this title shall be filed within one hundred eighty (180) days after the date upon which material, machinery or supplies were last furnished or labor or services last performed under the relevant contract or subcontract, whichever the case may be. A lien created pursuant to Sections 144 and 145 of this title shall affect only the oil and gas leasehold estate and shall not constitute a lien against or otherwise affect any other interest in the real property involved, except if the owner of an oil, gas or other mineral interest therein shall also own a working interest in a well located thereon, such lien shall attach to said working interest.

R.L.1910, § 3867. Amended by Laws 1983, c. 57, § 1, eff. Nov. 1, 1983; Laws 1985, c. 136, § 2, eff. Nov. 1, 1985; Laws 1990, c. 99, § 1, eff. Sept. 1, 1990; Laws 2002, c. 460, § 31, eff. Nov. 1, 2002.

§42-147. Repealed by Laws 1982, c. 332, § 3.

§42-147.1. Discharge of lien.

Any property owner or other interested party, including but not limited to mortgagees, contractors, subcontractors and others against whom a lien claim is filed under the provisions of the law relating to mechanics' and materialmen's liens, may at any time discharge the lien by depositing with the county clerk in whose office the lien claim has been filed either: An amount of money equal to one hundred twenty-five percent (125%) of the lien claim amount; or a corporate surety bond with a penal amount equal to one hundred twenty-five percent (125%) of the lien claim amount. Within three (3) business days after the deposit of money or bond is made, the county clerk shall

serve upon the lien claimant, at the address shown on the lien claim, written notice setting forth: The number of the lien claim; the name of the lien claimant; the name of the property owner; the name of the alleged debtor, if someone other than the property owner; the property description shown on the lien claim; and the amount of cash deposited or, if a bond is filed, the names of the principal and surety and the bond penalty. The party seeking to discharge the lien shall prepare and deliver the notice to the county clerk and pay a fee in accordance with Section 32 of Title 28 of the Oklahoma Statutes. An abbreviated notice may be used if the same refers to and encloses a copy of the lien claim and either a copy of the cash receipt issued by the county clerk or a copy of the bond with the clerk's filing stamp thereon. The notice shall be mailed by registered or certified mail at the option of the county clerk.

If cash is deposited, the county clerk shall immediately show the lien released of record. If a bond is deposited, the lien claimant shall have ten (10) days after the notice is mailed within which to file a written objection with the county clerk. If a written objection is not timely filed the county clerk shall immediately show the lien released of record. If an objection is timely made, the county clerk shall set a hearing within ten (10) days thereafter and notify by ordinary mail both the lien claimant and the party making the deposit of the date and time thereof. The only grounds for objection shall be that: The surety is not authorized to transact business in this state; the bond is not properly signed; the penal amount is less than one hundred twenty-five percent (125%) of the claim; the power of attorney of the surety's attorney-in-fact does not authorize the execution; there is no power of attorney attached if the bond is executed by anyone other than the surety's president and attested by its secretary; or a cease and desist order has been issued against the surety either by the Insurance Commissioner or a court of competent jurisdiction. Within two (2) business days following the hearing the county clerk shall either sustain or overrule the objections and notify the parties of the county clerk's ruling by ordinary mail. If the objections are sustained, the ruling of the county clerk shall be conclusive for lien release purposes unless appealed within ten (10) days to the district court. If the objections are overruled, the county clerk shall immediately show the lien released of record.

The bond shall: Name the lien claimant as obligee and the party seeking the release as principal; be executed by both the principal and the surety; have a proper power of attorney attached if executed by an attorney-in-fact; be executed by a corporate surety authorized to transact business in this state; and be conditioned that the principal and surety will pay the full amount of the claim as established in any appropriate court proceeding, plus any court costs and attorney fees awarded the lien claimant, but in no event shall the liability of the principal or surety under the bond exceed the bond penalty. The preceding clause shall not limit the common law liability of the party who created the indebtedness upon which the lien claim is based. The conditions of any bond filed pursuant to this section shall be deemed to comply with the requirements hereof, regardless of the language or limitations set forth therein, if both the principal and surety intend that the bond be filed to secure a lien release under this section.

The cash deposit or bond, as the case may be, shall stand in lieu of the released lien, and the lien claimant must proceed against the substituted security in the same time and manner as is required for foreclosure of a lien claim. The cash deposit or bond shall stand liable for such principal, interest, court costs and attorney fees to the extent they could be awarded in a lien foreclosure proceeding.

The only proper parties to an action against the substituted security are: The party making the cash deposit; the bond principal and surety; the party primarily liable for the indebtedness giving rise to the lien claim; and anyone else who may be liable to the lien claimant for the same indebtedness. The party making the cash deposit and the bond principal and surety are necessary parties to an action against the substituted security, and by making a deposit or filing a bond the parties subject themselves to personal jurisdiction in the court where the action is properly filed and may be served with process as in other cases.

If the lien claimant fails to timely file a foreclosure action, upon application of the party making the deposit or filing the bond and the payment of a fee of Ten Dollars (\$10.00), the county clerk shall return the cash to the party making the deposit or appropriately note on the bond that the same has been released. The clerk shall not incur liability to any lien claimant for an inadvertent release of cash or bond. At the end of ten (10) years and after

the county clerk has attempted written notification to the lien claimant at the address shown on the lien claim, if no foreclosure has been commenced by the lien claimant or such money has not been withdrawn upon application of the depositing party, the cash deposit plus all accrued interest shall be forfeited to the county general fund.

Nothing contained in this section shall preclude the lien claimant and other interested parties from entering into agreements for the substitution of a different form of security in lieu of the lien claim.

The county clerk shall invest the deposited cash in the manner provided for county treasurers in Section 348.1 of Title 62 of the Oklahoma Statutes. Any interest earned thereon shall become a part of the deposit and be either returned to the party making the deposit, if no action is filed, or paid in accordance with any final judgment rendered by the court in the action against the substituted security. If a district court judgment adverse to the depositing party is entered, in setting the amount of supersedeas bond the court shall take into consideration the existing cash deposit or bond.

Added by Laws 1982, c. 332, § 1, eff. Oct. 1, 1982.

Amended by Laws 2003, c. 184, § 4, eff. Nov. 1, 2003; Laws 2007, c. 100, § 6, eff. Nov. 1, 2007.

NOTE: Laws 2007, c. 132, § 7 repealed by Laws 2008, c. 3, § 23, emerg. eff. Feb. 28, 2008.