STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 1980 BY: ISAAC

AS INTRODUCED

AN ACT RELATING TO COUNTY NUISANCE AUTHORITY; PROVIDING FOR THE AUTHORITY OF CERTAIN COUNTIES TO DECLARE CERTAIN PROPERTIES A NUISANCE; PROVIDING PROCEDURES FOR THE BOARD OF COUNTY COMMISSIONERS OF CERTAIN COUNTIES TO TEAR DOWN AND REMOVE DILAPIDATED BUILDINGS WITHIN THE COUNTY; REQUIRING CERTAIN NOTICES AND HEARINGS; PROVIDING FOR PAYMENT OF CERTAIN COSTS; AUTHORIZING BOARD OF COUNTY COMMISSIONERS TO DESIGNATE ADMINISTRATIVE OFFICERS OR BODIES FOR CERTAIN PURPOSES; DEFINING TERMS; PROVIDING EXEMPTION FROM CERTAIN LIABILITY FOR COUNTY OFFICERS, EMPLOYEES AND AGENTS; PROVIDING PROCEDURES FOR THE BOARD OF COUNTY COMMISSIONERS OF CERTAIN COUNTIES TO TEAR DOWN AND REMOVE DILAPIDATED BUILDINGS ACQUIRED BY RESALE; REQUIRING CERTAIN NOTICES AND HEARINGS; PROVIDING FOR PAYMENT OF CERTAIN COSTS; AUTHORIZING DESIGNATION OF CERTAIN ADMINISTRATIVE OFFICERS OR BODIES; PROVIDING FOR CODIFICATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 360 of Title 19, unless there is created a duplication in numbering, reads as follows:

The board of county commissioners of any county in this state with a population in excess of five hundred fifty thousand (550,000) may cause dilapidated buildings within the unincorporated area of the county to be torn down and removed in accordance with the provisions in this section.

1. At least ten (10) days' notice that a building is to be torn down or removed shall be given to the owner of the property before the board of county commissioners holds a hearing. A copy of the notice shall be posted on the property to be affected. In addition, a copy of said notice shall be sent by mail to the property owner at the address shown by the current year's tax rolls in the office of the county treasurer. Written notice shall also be mailed to any mortgage holder as shown by the records in the office of the county clerk to the last-known address of the mortgagee. At the time of mailing of notice to any property owner or mortgage holder, the county shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. However, if neither the property owner nor mortgage holder can be located, notice shall be given by posting a copy of the notice on the property, and by publication in a newspaper having a general circulation in the county. Such notice shall be published once not less than ten (10) days prior to any hearing or action by the board of county commissioners pursuant to the provisions of this section.

2. A hearing shall be held by the board of county commissioners to determine if the property is dilapidated and has become detrimental to the health, safety, or welfare of the general public and the community, or if said property creates a fire hazard which is dangerous to other property.

3. Pursuant to a finding that the condition of the property constitutes a detriment or a hazard and that the property would be benefited by the removal of such conditions, the board of county commissioners may cause the dilapidated building to be torn down and removed. The board of county commissioners shall fix reasonable dates for the commencement and completion of the work. The board of county commissioners shall immediately file a notice of dilapidation and lien with the county clerk describing the findings of the board at the hearing, and stating that the county claims a lien on said property for the destruction and removal costs and that such costs are the personal obligation of the property owner from and after the date of filing of said notice. The agents of the county are granted the right of entry on the property for the performance of the necessary duties as a governmental function of the county if the work is not performed by the property owner within dates fixed by the board.

4. The board of county commissioners shall determine the actual cost of the dismantling and removal of dilapidated buildings and any other expenses that may be necessary in conjunction with the dismantling and removal of the buildings including the cost of notice and mailing. The county clerk shall forward a statement of the actual cost attributable to the dismantling and removal of the buildings and a demand for payment of such costs, by mail to the property owner. In addition, a copy of said statement shall be mailed to any mortgage holder at the address provided for in paragraph 1 of this section. At the time of mailing of the statement of costs to any property owner or mortgage holder, the county shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. If a county dismantles or removes any dilapidated buildings, the costs to the property owner shall not exceed the actual cost of the labor, maintenance, equipment, and any

other expenses required for the dismantling and removal of the dilapidated buildings. If dismantling and removal of the dilapidated buildings is done on a private contract basis, the contract shall be awarded to the lowest and best bidder. All costs and expenses may be paid from the general fund of the county.

5. When payment is made to the county for costs incurred, the board of county commissioners shall file a release of lien, but if payment attributable to the actual cost of the dismantling and removal of the buildings is not made within six (6) months from the date of the mailing of the statement to the owner of such property, the board shall forward a certified statement of the amount of the cost to the county treasurer of said county. Said costs shall be levied on the property and collected by the county treasurer as are other taxes authorized by law. Until finally paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date of the notice of dilapidation and lien is filed with the county clerk. In addition the cost and the interest thereon shall be a lien against the property from the date the notice of the lien is filed with the county clerk. Said lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the cost is fully paid. At the time of collection, the county treasurer shall collect a fee of Five Dollars ($5.00) for each parcel of property. Said fee shall be deposited to the credit of the general fund of the county. At any time prior to collection as provided for in this paragraph, the county may pursue any civil remedy for collection of the amount owing, interest and costs thereon including an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment

lien created pursuant to this section. Upon receiving payment, by civil remedy the board of county commissioners shall forward to the county treasurer a notice of such payment and shall direct discharge of the lien.

6. The board of county commissioners may designate, by resolution, an administrative officer or administrative body to carry out the duties of the board of county commissioners specified in this section. The property owner shall have the right of appeal to the board from any order of the administrative officer or administrative body. Such appeal shall be taken by filing written notice of appeal with the county clerk within ten (10) days after the administrative order is rendered.

7. For the purposes of this section, "dilapidated building" means a structure which through neglect or injury lacks necessary repairs or otherwise is in a state of decay or partial ruin to such an extent that said structure is a hazard to the health, safety, or welfare of the general public. "Owner" means the owner of record as shown by the most current tax rolls of the county treasurer.

8. Nothing in the provisions of this section shall prevent the county from abating a dilapidated building as a nuisance or otherwise exercising its duties to protect the health, safety, or welfare of the general public.

9. The officers, employees or agents of the county shall not be liable for any damages of loss of property due to the removal of dilapidated buildings performed pursuant to the provisions of this section or as otherwise prescribed by law.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20 of Title 50, unless there is created a duplication in numbering, reads as follows:

The board of county commissioners of any county in this state with a population in excess of five hundred fifty thousand (550,000) may declare what shall constitute a nuisance, and provide for the

prevention, removal and abatement of nuisances for those properties acquired by the county through resale and any property located within an unincorporated area of the county.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3134.1 of Title 68, unless there is created a duplication in numbering, reads as follows:

The board of county commissioners of any county in this state with a population in excess of five hundred fifty thousand (550,000) may cause dilapidated buildings acquired by resale to be torn down and removed in accordance with the following procedure:

1. For the purposes of this section, "dilapidated building" means a structure which through neglect or injury lacks necessary repairs or otherwise is in a state of decay or partial ruin to such an extent that said structure is a hazard to the health, safety, or welfare of the general public. "Owner" means the owner of record as shown by the tax rolls of the county treasurer, at the time property was bid off in the name of the county;

2. At least ten (10) days' notice that a building is to be torn down or removed shall be given before the board of county commissioners holds a hearing. A copy of the notice shall be posted on the property to be affected. In addition, a copy of said notice shall be sent by mail to the property owner at the address shown by the tax rolls in the office of the county treasurer. Written notice shall also be mailed to any mortgage holder as shown by the records in the office of the county clerk to the last-known address of the mortgagee. Notice shall also be given by posting a copy of the notice on the property, and by publication in a newspaper having a general circulation in the county. Such notice shall be published once not less than ten (10) days prior to any hearing or action by the board pursuant to the provisions of this section;

3. A hearing shall be held by the board of county commissioners to determine if the property is dilapidated and has become

detrimental to the health, safety, or welfare of the general public and the community, or if said property creates a fire hazard which is dangerous to other property;

4. Pursuant to a finding that the condition of the property constitutes a detriment or a hazard and that the property would be benefited by the removal of such conditions, the board of county commissioners may cause the dilapidated building to be torn down and removed. The board of county commissioners shall fix reasonable dates for the commencement and completion of the work. The agents of the county are granted the right of entry on the property for the performance of the necessary duties as a governmental function of the county;

5. The board of county commissioners shall determine the actual cost of the dismantling and removal of dilapidated buildings and any other expenses that may be necessary in conjunction with the dismantling and removal of the buildings including the cost of notice and mailing. If dismantling and removal of the dilapidated buildings is done on a private contract basis, the contract shall be awarded to the lowest and best bidder. All costs and expenses may be paid from the resale property fund of the county;

6. The board of county commissioners may designate, by resolution, an administrative officer or administrative body to carry out the duties of the board specified in this section. The property owner shall have the right of appeal to the board of county commissioners from any order of the administrative officer or administrative body. Such appeal shall be taken by filing written notice of appeal with the county clerk within ten (10) days after the administrative order is rendered;

7. Nothing in the provisions of this section shall prevent the county from abating a dilapidated building as a nuisance or otherwise exercising its duties to protect the health, safety, or welfare of the general public; and

8. The officers, employees or agents of the county shall not be liable for any damages or loss of property due to the removal of dilapidated buildings performed pursuant to the provisions of this section or as otherwise prescribed by law.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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