

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 2931

By: Blackburn

AS INTRODUCED

An Act relating to municipalities; authorizing certain procedures for deteriorated historic structures to be repaired; providing for notice, hearing, right of entry for repair work and appeal; making costs of the repair the responsibility of the property owner; providing for release of lien; requiring determination of cost of repairs; requiring statement of cost be mailed to owner; estimating cost of repairs and providing for bidding on repairs; providing for lien and release of lien; requiring certain fees; allowing civil remedies; allowing designation of certain person or entity; allowing appeal; construing law; exempting municipalities from certain liabilities; defining terms; providing for codification; and providing an effective date.

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 22-112.3 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. The governing body of any municipality with a population in excess of three hundred thousand (300,000) persons according to the latest Federal Decennial Census may cause deteriorated historic buildings within the municipal limits to be repaired in accordance with the following provisions:

1. At least ten (10) days' notice that a deteriorated historic building is to be repaired shall be given to the owner and the tenant of the property before the governing body holds a hearing or takes action. A copy of the notice shall be posted on the property to be affected. In addition, a copy of the 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 and to the tenant, if any, at the property address. 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, tenant, or mortgage holder, the municipality 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 addressee(s). However, if the property owner, tenant, or mortgage holder cannot be located, notice shall be deemed to have been given by posting a copy of the notice on the property, as provided in this paragraph, or by publication as defined in Section 1-102 of Title 11 of the Oklahoma Statutes. The notice by publication shall be published once not less than ten (10) days prior to any hearing or action by the municipality pursuant to the provisions of this section;

2. A hearing shall be held by the governing body to determine if the property is a deteriorated historic building that constitutes a detriment to the public health, safety, or welfare;

3. Pursuant to findings that the property is a deteriorated historic building that constitutes a detriment to the public health, safety, or welfare and that the property would be benefited by the

removal of such conditions, the governing body may cause the building to be repaired. The governing body shall fix reasonable dates for the commencement and completion of the repair work. The municipal clerk shall immediately file a notice of lien with the county clerk describing the property, the findings of the municipality at the hearing, and stating that the municipality claims a lien on the property for the repair costs and that such costs are the personal obligation of the property owner from and after the date of filing of the notice. The agents of the municipality are granted the right of entry on the property for the performance of the necessary repair work as a governmental function of the municipality if the repair work is not performed by the property owner within dates fixed by the governing body;

4. The governing body shall determine the actual cost of repairing the deteriorated historic building and any other expenses that may be necessary in conjunction with repairing the building, including the cost of notice and mailing. The municipal clerk shall forward a statement of the actual cost attributable to repairing the building and demand for payment of such costs by mail to the property owner. In addition, a copy of the statement shall be mailed to any tenant or mortgage holder at the addresses provided for in paragraph 1 of this subsection. At the time of mailing of the statement of costs to any property owner, tenant, or mortgage holder, the municipality 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 addressee(s). If a municipality repairs any deteriorated historic building, the cost to the property owner shall not exceed the actual cost of the labor, materials, and equipment required to repair the building. If the repair work is done on a private contract basis, the contract shall be awarded to the lowest and most qualified bidder;

5. When payment is made to the municipality for costs incurred, the municipal clerk shall file a release of lien, but if payment attributable to the actual cost of repairing the building is not made within six (6) months from the date of mailing of the statement to the owner of such property, the municipal clerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located. The costs shall be levied on the property and collected by the county treasurer as are other taxes authorized by law. Until final payment is made, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date the notice of lien is filed with the county clerk. In addition, the costs and the interest thereon shall be a lien against the property from the date the notice of lien is filed with the county clerk. The 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 paid in full. At the time of collection, the county treasurer shall collect a fee of Five Dollars (\$5.00) for each parcel of property. The 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 municipality may pursue any civil remedy for collection of the amount owing and interest thereon including an action in person 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, the municipal clerk shall forward to the county treasurer a notice of such payment and shall direct discharge of the lien; and

6. The municipality may designate, by ordinance, an administrative officer or administrative body to carry out the

duties of the governing body specified in this section. The property owner shall have the right of appeal to the municipal governing body from any order of the administrative officer or administrative body. Such appeal shall be taken by filing written notice of appeal with the municipal clerk within ten (10) days after the administrative order is rendered.

B. Nothing in the provisions of this section shall prevent the municipality from otherwise exercising its police power to protect the health, safety, or welfare of the general public.

C. The municipality and its officers, employees, or agents of the municipality shall not be liable for any damages or loss of property due to the repair of deteriorated historic buildings performed pursuant to the provisions of this section or as otherwise prescribed by law.

D. The provisions of this act shall not apply to any property zoned and used for agricultural purposes.

E. For purposes of this section:

1. "Deteriorated historic building" means any structure that:

- a. is listed on the National Register of Historic Places as a historic structure, or
- b. is located within the boundaries of a historic preservation zoning district or a historic landmark zoning district established by ordinance of the municipal governing body, and
- c. is in a state of decay, disrepair, or partial ruin to such an extent that the historic character of the building has been impaired;

2. "Owner" means the owner of record as shown by the most current tax rolls of the county treasurer;

3. "Repair" or "repaired" means performance of any or all work necessary to remedy the conditions of decay, disrepair, or partial

ruin of a deteriorated historic building and to restore the building in keeping with its historic character; and

4. "Tenant" means any person shown by the records of the county clerk's office as a lessee of property, or any person lawfully in actual physical possession of property.

SECTION 2. This act shall become effective November 1, 1998.

46-2-8397

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