ENROLLED HOUSE
BILL NO. 1492

By: Nations and Pettigrew of the House

and

Brown of the Senate

An Act relating to cities and towns; amending 11 O.S. 1991, Section 21-110, which relates to detachment of municipal territory; setting forth certain procedures for detachment of municipal territory; deleting certain reference to appeal of certain action; providing that failure to comply renders certain petition insufficient; requiring clerk to determine sufficiency of signatures; requiring certain publication; authorizing public hearing; requiring appeal to be in certain manner; amending 11 O.S. 1991, Section 22-112, as amended by Section 1, Chapter 83, O.S.L. 1997 (11 O.S. Supp. 1998, Section 22-112), which relates to condemnation of dilapidated buildings; modifying definition; amending 11 O.S. 1991, Section 39-108, which relates to hearings upon creation of improvement districts; deleting certain exceptions regarding entities which may file certain protest or objection; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 21-110, is amended to read as follows:

Section 21-110. A. Territory may be detached from the corporate limits of a municipality by the governing body when:

1. An ordinance of the governing body so directs; or

2. A petition requesting detachment, signed by at least three-fourths (3/4) of the registered voters and by the owners of at least three-fourths (3/4), ~~(~~in value~~)~~, of the property to be detached, is filed with the governing body.

Only land which is within the limits of the municipality and upon its border and not laid out in lots and blocks~~;~~, or land which had been annexed to a municipality, may be detached by petition.

B. Petitioners for detachment of municipal territory shall comply with the following procedures:

1. A true and complete unsigned copy of the petition requesting detachment shall be filed with the clerk of the municipality before

it is circulated and signed by at least three-fourths (3/4) of the registered voters and by the owners of at least three-fourths (3/4), in value, of the property to be detached, as required by subsection A of this section;

2. Signed copies of the petition requesting detachment shall be filed with the clerk of the municipality within ninety (90) days after the initial filing of the unsigned copy with the clerk; and

3. Notice of ~~any governing body action on a petition~~ the filing of the signed petition requesting detachment~~, and appeal to the district court,~~ with the clerk of the municipality shall be given in the same manner provided for petitions requesting annexation.

Failure to comply with the notice requirement or the other procedures set forth in this subsection shall render the petition for detachment insufficient and no action thereon shall be required by the clerk or governing body of the municipality.

C. When signed copies of the petition requesting detachment are timely filed with the clerk of the municipality, the clerk shall determine the sufficiency of the signatures appearing on the petition. The clerk shall then publish, in at least one newspaper of general circulation in the municipality, a notice of the filing and the apparent sufficiency or insufficiency of the petition. Within ten (10) days following the publication, the governing body of the municipality shall hold a public hearing on the petition requesting detachment and take such action thereon as the governing body deems appropriate, which may include approval, denial, or deferral.

D. Appeal to the district court concerning any action by the clerk or governing body of the municipality on a petition requesting detachment shall be in the same manner provided for petitions requesting annexation.

SECTION 2. AMENDATORY 11 O.S. 1991, Section 22-112, as amended by Section 1, Chapter 83, O.S.L. 1997 (11 O.S. Supp. 1998, Section 22-112), is amended to read as follows:

Section 22-112. A. A municipal governing body may cause dilapidated buildings within the municipal limits to be torn down and removed in accordance with the ~~provisions of this section.~~ following procedures:

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 governing body holds a hearing. 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. 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 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 mailee. However, if neither the property owner nor mortgage holder can be located, notice may be given by posting a copy of the notice on the property, or by publication as defined in Section 1-

102 of this title. The notice may 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 dilapidated and has become detrimental to the health, safety, or welfare of the general public and the community, or if the 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 governing body may cause the dilapidated building to be torn down and removed. The governing body shall fix reasonable dates for the commencement and completion of the work. The municipal clerk shall immediately file a notice of dilapidation and 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 destruction and removal 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 duties as a governmental function of the municipality if the 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 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 municipal 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 the statement shall be mailed to any mortgage holder at the address provided for in paragraph 1 of this ~~section~~ subsection. At the time of mailing of the statement of costs to any property owner 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 mailee. If a municipality dismantles or removes any dilapidated buildings, the cost to the property owner shall not exceed the actual cost of the labor, maintenance, and equipment 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~~.~~; and

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 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 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 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. 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 fully paid. 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 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, the municipal clerk shall forward to the county treasurer a notice of such payment and shall direct discharge of the lien.

~~6.~~ B. 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.

~~7.~~ C. For the purposes of this section:

~~a. "dilapidated~~

1. "Dilapidated building" means:

a. 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 the structure is a hazard to the health, safety, or welfare of the general public ~~or~~,

b. a ~~vacant~~ structure which is unfit for human occupancy due to the lack of necessary repairs and is considered uninhabitable ~~and~~ or is a hazard to the health, safety, and welfare of the general public, ~~and~~

~~b. "owner~~

c. a structure which is determined by the municipal governing body or administrative officer of the municipal governing body to be an unsecured building, as defined by Section 22-112.1 of this title, more than three times within any twelve-month period,

d. a structure which has been boarded and secured, as defined by Section 22-112.1 of this title, for more than thirty-six (36) consecutive months, or

e. a structure declared by the municipal governing body to constitute a public nuisance; and

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

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

~~9.~~ E. The officers, employees or agents of the municipality 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.

~~10.~~ F. The provisions of this ~~act~~ section shall not apply to any property zoned and used for agricultural purposes.

SECTION 3. AMENDATORY 11 O.S. 1991, Section 39-108, is amended to read as follows:

Section 39-108. A. At the hearing of the governing body on the proposed resolution creating a district, any interested person or owner of property to be assessed for the improvement~~, except a school district, city or county,~~ may file a written protest or objection questioning the:

1. Propriety and advisability of constructing the improvement;

2. Estimated cost of the improvement;

3. Manner of paying for the improvement; and

4. Amount to be assessed against the individual tract or parcel of land.

B. The governing body may recess the hearing from time to time so that all protestants may be heard.

C. At the hearing, the governing body may:

1. Correct any mistake or irregularity in any proceeding relating to the improvement;

2. Correct an assessment made against any tract or parcel of land;

3. In case of any invalidity, reassess the cost of the improvement against an abutting tract or parcel of land;

4. Delete any tract or parcel of land, protested by the owner, from the district; and

5. Recess the hearing from time to time.

D. Within thirty (30) days after the governing body has concluded the hearing; determined the advisability of constructing the improvement and the type and character of the improvement; and created the improvement district, any person who, during the hearing, filed a written protest with the governing body protesting the construction of the improvement may commence an action in district court to correct or set aside the determination of the

governing body. After the lapse of thirty (30) days succeeding the determination of the governing body, any action attacking the validity of the proceedings and the amount of benefit to be derived from the improvement is perpetually barred. Provided, however, if the owners of fifty percent (50%) or more in area of the tracts or parcels within the district or a majority of the owners of record of property in the assessment area protest, in writing, the creation of the district, the district shall not be created.

SECTION 4. This act shall become effective November 1, 1999.

Passed the House of Representatives the 24th day of May, 1999.

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Speaker of the House of Representatives

Passed the Senate the 25th day of May, 1999.

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President of the Senate