

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 HOUSE BILL 3363

By: Echols of the House

and

Treat of the Senate

6  
7  
8  
9 COMMITTEE SUBSTITUTE

10 [ cities and towns - procedures to abate public  
11 nuisance - codification - effective date ]

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

14 SECTION 1. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 22-112.4 of Title 11, unless  
16 there is created a duplication in numbering, reads as follows:

17 A. An abandoned building shall constitute a public nuisance  
18 because:

19 1. It is detrimental to the public health, safety, or welfare  
20 of the inhabitants of and visitors to the city;

21 2. It causes increased municipal regulatory costs and increased  
22 municipal police and fire protection costs; and

23 3. It devalues abutting and nearby real properties.  
24

1 B. A municipal governing body may abate the public nuisance  
2 caused by an abandoned building within the municipal limits in  
3 accordance with the following procedures:

4 1. At least ten (10) days' notice that an abandoned building is  
5 to be abated pursuant to the procedures for abatement set forth in  
6 this section shall be given to the owner of the property before the  
7 governing body holds a hearing. A copy of the notice shall be sent  
8 by mail to the property owner at the address shown by the current  
9 year's tax rolls in the office of the county treasurer. Written  
10 notice shall also be mailed to any mortgage holder as shown by the  
11 records in the office of the county clerk to the last-known address  
12 of the mortgagee. At the time of mailing of notice to any property  
13 owner or mortgage holder, the city shall obtain a receipt of mailing  
14 from the postal service, which receipt shall indicate the date of  
15 mailing and the name and address of the mailee. However, if neither  
16 the property owner nor mortgage holder can be located, notice may be  
17 given by posting a copy of the notice on the property, or by  
18 publication as defined in Section 1-102 of Title 11 of the Oklahoma  
19 Statutes. Such notice shall be published once not less than ten  
20 (10) days prior to any hearing or action by the city pursuant to the  
21 provisions of this section;

22 2. A hearing shall be held by the governing body to determine  
23 if the property is an abandoned building as defined by this section;  
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1           3. Pursuant to a determination that the building is an  
2 abandoned building, the governing body may order the agents of the  
3 city to pursue abatement of the public nuisance caused by the  
4 building and shall order the municipal clerk to place the building  
5 on an abandoned building list to be maintained by the clerk. At any  
6 time after such determination and order, the agents of the city may  
7 cause the public nuisance to be abated as authorized in this  
8 section, and such abatement may continue until such time as the  
9 building is removed from the abandoned building list in accordance  
10 with the procedures set forth in subsection C of this section;

11           4. Abatement of an abandoned building by the city may include  
12 any or all of the following:

13           a. any lawful municipal regulatory or municipal police  
14 and fire protection action in relation to the  
15 abandoned building or the owner of such building  
16 necessary or appropriate for the protection of  
17 inhabitants in and visitors to the city. The agents  
18 of the city are granted the right of entry onto the  
19 property for the performance of any such action as a  
20 governmental function of the city, subject to such  
21 agents obtaining any necessary warrant to authorize  
22 such action,

23           b. the quarterly assessment against the property on which  
24 the abandoned building is located and against the

1 owner of the abandoned building of the actual costs of  
2 any municipal regulatory action taken in relation to  
3 the abandoned building or the owner of such building  
4 as authorized above,

5 c. the assessment against the property on which the  
6 abandoned building is located and against the owner of  
7 the abandoned building of the actual costs of any  
8 municipal police or fire protection action taken in  
9 relation to the abandoned building or the owner of  
10 such building as authorized above, and

11 d. an assessment for any other actual expenses incurred  
12 by the city in relation to the abandoned building,  
13 including but not limited to the cost of notices,  
14 mailings, and publications;

15 5. After a determination that a building is an abandoned  
16 building, and before commencement of any of the abatement actions  
17 authorized by paragraphs 3 and 4 of this subsection, the municipal  
18 clerk shall file a notice of lien with the county clerk describing  
19 the property, the findings of the governing body at the hearing, and  
20 stating that the city claims a lien on the property for all  
21 abatement costs and that such costs shall also constitute the  
22 personal obligation of the property owner from and after the date of  
23 filing of the notice;

1           6. From and after the determination that a building is an  
2 abandoned building, and continuing until such time as the building  
3 is removed from the abandoned building list in accordance with the  
4 procedures set forth in subsection C of this section, the municipal  
5 clerk shall determine the actual quarterly abatement costs for the  
6 abatement procedures authorized by this section. After such  
7 determination, the municipal clerk shall mail a statement of the  
8 actual quarterly abatement costs for the abatement procedures  
9 authorized by this section to the property owner and demand the  
10 payment of such costs by the owner. In addition, a copy of the  
11 statement shall be mailed to any mortgage holder at the address  
12 provided for in paragraph 1 of this subsection. At the time of  
13 mailing of the statement of costs to any property owner or mortgage  
14 holder, the municipal clerk shall obtain a receipt of mailing from  
15 the postal service, which receipt shall indicate the date of mailing  
16 and the name and address of the mailee; and

17           7. When full payment is made to the municipal clerk for actual  
18 abatement costs incurred and billed in accordance with paragraph 6  
19 of this subsection, the municipal clerk shall send the property  
20 owner and any mortgage holder a receipt for such payment; but if  
21 payment attributable to the actual quarterly costs of such abatement  
22 is not made within six (6) months from the date of the mailing of  
23 the statement to the owner of such property, the municipal clerk  
24 shall forward a certified statement of the amount of such costs to

1 the county clerk. Until finally paid, the costs and the interest  
2 thereon shall be the personal obligation of the property owner from  
3 and after the date the notice of lien was filed with the county  
4 clerk. In addition, the cost and the interest thereon shall be a  
5 lien against the property from the date the notice of lien was filed  
6 with the county clerk. Said lien shall be coequal with the lien of  
7 ad valorem taxes and all other taxes and special assessments and  
8 shall be prior and superior to all other titles and liens against  
9 the property. The lien shall continue until the cost is fully paid.  
10 A mineral interest, if severed from the surface interest and not  
11 owned by the surface owner, shall not be subject to any lien created  
12 pursuant to this section. Upon receiving full payment, the  
13 municipal clerk shall forward to the county clerk a notice of  
14 discharge of the lien.

15 C. Any owner or mortgage holder of any building determined by  
16 the governing body of the city to be an abandoned building pursuant  
17 to this section may petition the governing body in writing at any  
18 time after such determination for removal of such building from the  
19 abandoned building list maintained by the municipal clerk. Any such  
20 petition shall be filed with the municipal clerk. Within thirty  
21 (30) days after such petition is filed with the municipal clerk, the  
22 governing body shall hold a hearing to determine if the building is  
23 no longer an abandoned building. Upon such a determination, the  
24 governing body shall order the building removed from the abandoned

1 building list. The municipal clerk shall comply with such order by  
2 removing the building from the abandoned building list and shall  
3 file a release of the notice of lien filed in the county clerk's  
4 office within ten (10) days after such order; provided, the real  
5 property on which the abandoned building is located and the owner of  
6 such building shall remain liable for payment of any and all  
7 abatement costs incurred by the city prior to the determination and  
8 order by the governing body that the building should be removed from  
9 the abandoned building list.

10 D. The governing body may designate, by ordinance, an  
11 administrative officer or administrative body of the city to carry  
12 out any or all of the duties of the governing body specified in this  
13 section. The property owner shall have the right of appeal to the  
14 governing body from any order of the administrative officer or  
15 administrative body. Such appeal shall be taken by filing a written  
16 notice of appeal with the municipal clerk within ten (10) days after  
17 the administrative order is delivered or mailed to the owner at the  
18 address shown in the county treasurer records.

19 E. For purposes of this section:

20 1. "Abandoned building" means any building located within the  
21 city that, regardless of its structural condition, is not currently  
22 occupied by an owner or lawful tenant and to which any one of the  
23 following conditions apply:

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1 a. the building has been declared unsecured or  
2 dilapidated pursuant to Section 22-112 or 22-112.1 of  
3 Title 11 of the Oklahoma Statutes and remains in such  
4 condition, or

5 b. there have been two or more convictions for municipal  
6 code violations related to the condition of the  
7 building;

8 2. "Not currently occupied" for multitenant buildings, either  
9 residential or commercial, means the building is more unoccupied  
10 than occupied by:

11 a. comparison of unoccupied square footage to the overall  
12 square footage, or

13 b. comparison of the number of unoccupied units to the  
14 total number of units.

15 Shared or common spaces or areas are not to be included in the  
16 comparison; and

17 3. "Owner" means the owner of record as shown by the most  
18 current tax rolls of the county assessor.

19 F. Nothing in this section shall prevent a city from otherwise  
20 exercising its police power to protect the health, safety, or  
21 welfare of the general public in relation to an abandoned building.

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

1 H. The officers, employees or agents of the city shall not be  
2 liable for any damages or loss of property due to the abatement of  
3 the public nuisance caused by an abandoned building performed  
4 pursuant to the provisions of this section or as otherwise provided  
5 by law.

6 SECTION 2. This act shall become effective November 1, 2014.

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