

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 54th Legislature (2014)

4 HOUSE BILL 3241

 By: Scott

7 AS INTRODUCED

8 An Act relating to cities and towns; declaring
9 legislative intent; designating certain buildings to
10 constitute public nuisance; providing procedures for
11 governing body to abate public nuisance; providing
12 for petition process after certain determination;
13 authorizing governing body to designate
14 administrative officer to perform duties; defining
15 terms; providing exceptions; providing for exemptions
16 from liability for certain person; providing for
17 codification; providing for noncodification; and
18 providing an effective date.

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

17 SECTION 1. NEW LAW A new section of law not to be
18 codified in the Oklahoma Statutes reads as follows:

19 The Oklahoma Legislature hereby declares that one or more vacant
20 buildings constitute a public nuisance in any city.

21 SECTION 2. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 112.1.1 of Title 11, unless
23 there is created a duplication in numbering, reads as follows:

24 A. A vacant building shall constitute a public nuisance if:

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

3 2. It causes increased municipal regulatory costs and increased
4 municipal police and fire protection costs; and

5 3. It devalues abutting and nearby real properties.

6 B. A municipal governing body may abate the public nuisance
7 caused by any vacant building within the municipal limits in
8 accordance with the following procedures:

9 1. At least ten (10) days' notice that a vacant building is to
10 be abated pursuant to the procedures for abatement set forth in this
11 section shall be given to the owner of the property before the
12 governing body holds a hearing. A copy of the notice shall be sent
13 by mail to the owner as defined by this section. Written notice
14 shall also be mailed to any mortgage holder as shown by the records
15 in the office of the county clerk to the last-known address of the
16 mortgagee. At the time of mailing of notice to any property owner
17 or mortgage holder, the city shall obtain a receipt of mailing from
18 the postal service, which receipt shall indicate the date of mailing
19 and the name and address of the mailee. However, if neither the
20 property owner nor mortgage holder can be located, notice may be
21 given by posting a copy of the notice on the property, or by
22 publication as defined in Section 1-102 of Title 11 of the Oklahoma
23 Statutes. Such notice shall be published once not less than ten
24

1 (10) days prior to any hearing or action by the city pursuant to the
2 provisions of this section;

3 2. A hearing shall be held by the governing body to determine
4 if the property is a vacant building as defined by this section;

5 3. Pursuant to a determination that the building is a vacant
6 building, the governing body may order the agents of the city to
7 pursue abatement of the public nuisance caused by the building and
8 shall order the municipal clerk to place the building on a vacant
9 building list to be maintained by the clerk. At any time after such
10 determination and order, the agents of the city may cause the public
11 nuisance to be abated as authorized in this section, and such
12 abatement may continue until such time as the building is removed
13 from the vacant building list in accordance with the procedures set
14 forth in subsection C of this section;

15 4. Abatement of the vacant building by the city may include any
16 or all of the following:

17 a. any lawful municipal regulatory or municipal police
18 and fire protection action in relation to the vacant
19 building or the owner of such building necessary or
20 appropriate for the protection of inhabitants in and
21 visitors to the city. The agents of the city are
22 granted the right of entry onto the property for the
23 performance of any such action as a governmental
24 function of the city,

1 b. the quarterly assessment against the property on which
2 the vacant building is located and against the owner
3 of the vacant building of the actual costs of any
4 municipal regulatory action taken in relation to the
5 vacant building or the owner of such building as
6 authorized above,

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

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

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

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

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

1 municipal clerk shall forward a certified statement of the amount of
2 such costs to the county treasurer to be collected as are taxes
3 authorized by law. Until finally paid, the costs and the interest
4 thereon shall be the personal obligation of the property owner from
5 and after the date the notice of lien was filed with the county
6 clerk. In addition, the cost and the interest thereon shall be a
7 lien against the property from the date the notice of lien was filed
8 with the county clerk. Said lien shall be coequal with the lien of
9 ad valorem taxes and all other taxes and special assessments and
10 shall be prior and superior to all other titles and liens against
11 the property. The lien shall continue until the cost is fully paid.
12 At the time of collection, the county treasurer shall collect a fee
13 of ten percent (10%) of the amount collected for each parcel of
14 property. The fee shall be deposited to the credit of the general
15 fund of the county. At any time prior to collection as provided for
16 in this paragraph, the city may pursue any civil remedy for
17 collection of the amount owing and interest thereon including an
18 action in personam against the property owner and an action in rem
19 to foreclose its lien against the property. A mineral interest, if
20 severed from the surface interest and not owned by the surface
21 owner, shall not be subject to any tax lien created pursuant to this
22 section. Upon receiving full payment, the municipal clerk shall
23 forward to the county treasurer a notice of such payment. The
24 collection process set forth in this paragraph may be pursued by the

1 city in relation to any quarterly assessment of abatement costs made
2 by the municipal clerk on behalf of the city.

3 C. Any owner or mortgage holder of any building determined by
4 the governing body of the city to be a vacant building pursuant to
5 this section may petition the governing body in writing at any time
6 after such determination for removal of such building from the
7 vacant building list maintained by the municipal clerk. Any such
8 petition shall be filed with the municipal clerk. Within thirty
9 (30) days after such petition is filed with the municipal clerk, the
10 governing body shall hold a hearing to determine if the building is
11 no longer a vacant building. Upon such a determination, the
12 governing body shall order the building removed from the vacant
13 building list. The municipal clerk shall comply with such order by
14 removing the building from the vacant building list and shall file a
15 release of the notice of lien filed in the county clerk's office
16 within ten (10) days after such order; provided, the real property
17 on which the vacant building is located and the owner of such
18 building shall remain liable for payment of any and all abatement
19 costs incurred by the city prior to the determination and order by
20 the governing body that the building should be removed from the
21 vacant building list. Until fully paid, any such prior costs shall
22 remain subject to collection by the city or the county treasurer as
23 provided for by this section.

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1 D. The governing body may designate, by ordinance, an
2 administrative officer or administrative body of the city to carry
3 out any or all of the duties of the governing body specified in this
4 section. The property owner shall have the right of appeal to the
5 governing body from any order of the administrative officer or
6 administrative body. Such appeal shall be taken by filing a written
7 notice of appeal with the municipal clerk within ten (10) days after
8 the administrative order is delivered or mailed to the owner.

9 E. For purposes of this section:

10 1. "Owner" means the owner of record as shown by the most
11 current tax rolls of the county treasurer; and

12 2. "Vacant building" means any building or portion thereof
13 located within the city that, regardless of its structural
14 condition, is not currently occupied and to which any one of the
15 following conditions apply:

16 a. the building has been declared unsecured or
17 dilapidated pursuant to Section 22-112 or 22-112.1 of
18 Title 11 of the Oklahoma Statutes and remains in such
19 condition,

20 b. the water or electric service to the building has been
21 shut off for more than sixty (60) days, or

22 c. the building is the subject of a foreclosure action.

23 F. Nothing in the provisions of this section shall prevent the
24 governing body from otherwise exercising its police power to protect

1 the health, safety, or welfare of the general public in relation to
2 a vacant building.

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

5 H. The officers, employees or agents of the city shall not be
6 liable for any damages or loss of property due to the abatement of
7 the public nuisance caused by a vacant building performed pursuant
8 to the provisions of this section or as otherwise provided by law.

9 SECTION 3. This act shall become effective November 1, 2014.

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11 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated
12 02/27/2014 - DO PASS.

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