HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 3363 By: Echols

COMMITTEE SUBSTITUTE

An Act relating to cities and towns; declaring legislative intent; designating certain buildings to constitute public nuisance; providing for notice and hearing; providing procedures for governing body to abate public nuisance; providing for petition process after certain determination; authorizing governing body to designate administrative officer to perform certain duties; defining terms; providing exceptions; providing for exemptions from liability for certain person; providing for codification; providing for noncodification; 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 not to be codified in the Oklahoma Statutes reads as follows:

The Oklahoma Legislature hereby declares that one or more abandoned buildings, as defined in Section 2 of this act, constitute a public nuisance in any city.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 22-112.4 of Title 11, unless there is created a duplication in numbering, reads as follows:

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

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

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

3. It devalues abutting and nearby real properties.

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

1. At least ten (10) days' notice that an abandoned building is to be abated pursuant to the procedures for abatement set forth in this section shall be given to the owner of the property before the governing body holds a hearing. 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 city shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of

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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 Title 11 of the Oklahoma Statutes. Such notice shall be published once not less than ten (10) days prior to any hearing or action by the city pursuant to the provisions of this section;

2. A hearing shall be held by the governing body to determine if the property is an abandoned building as defined by this section;

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

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

a. any lawful municipal regulatory or municipal police and fire protection action in relation to the abandoned building or the owner of such building

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necessary or appropriate for the protection of inhabitants in and visitors to the city. The agents of the city are granted the right of entry onto the property for the performance of any such action as a governmental function of the city, subject to such agents obtaining any necessary warrant to authorize such action,

b. the quarterly assessment against the property on which the abandoned building is located and against the owner of the abandoned building of the actual costs of any municipal regulatory action taken in relation to the abandoned building or the owner of such building as authorized above,

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

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

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

6. From and after the determination that a building is an abandoned building, and continuing until such time as the building is removed from the abandoned building list in accordance with the procedures set forth in subsection C of this section, the municipal clerk shall determine the actual quarterly abatement costs for the abatement procedures authorized by this section. After such determination, the municipal clerk shall mail a statement of the actual quarterly abatement costs for the abatement procedures authorized by this section to the property owner and demand the payment of such costs by the 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 subsection. At the time of mailing of the statement of costs to any property owner or mortgage holder, the municipal clerk shall obtain a receipt of mailing from

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the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee; and

7. When full payment is made to the municipal clerk for actual abatement costs incurred and billed in accordance with paragraph 6 of this subsection, the municipal clerk shall send the property owner and any mortgage holder a receipt for such payment; but if payment attributable to the actual quarterly costs of such abatement 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 such costs to the county clerk. Until finally paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date the notice of lien was 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 lien was 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. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any lien created pursuant to this section. Upon receiving full payment, the municipal clerk shall forward to the county clerk a notice of discharge of the lien.

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C. Any owner or mortgage holder of any building determined by the governing body of the city to be an abandoned building pursuant to this section may petition the governing body in writing at any time after such determination for removal of such building from the abandoned building list maintained by the municipal clerk. Any such petition shall be filed with the municipal clerk. Within thirty (30) days after such petition is filed with the municipal clerk, the governing body shall hold a hearing to determine if the building is no longer an abandoned building. Upon such a determination, the governing body shall order the building removed from the abandoned building list. The municipal clerk shall comply with such order by removing the building from the abandoned building list and shall file a release of the notice of lien filed in the county clerk's office within ten (10) days after such order; provided, the real property on which the abandoned building is located and the owner of such building shall remain liable for payment of any and all abatement costs incurred by the city prior to the determination and order by the governing body that the building should be removed from the abandoned building list.

D. The governing body may designate, by ordinance, an administrative officer or administrative body of the city to carry out any or all of the duties of the governing body specified in this section. The property owner shall have the right of appeal to the governing body from any order of the administrative officer or

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administrative body. Such appeal shall be taken by filing a written notice of appeal with the municipal clerk within ten (10) days after the administrative order is delivered or mailed to the owner at the address shown in the county treasurer records.

E. For purposes of this section:

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

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

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

2. “Not currently occupied” for multitenant buildings, either residential or commercial, means the building is more unoccupied than occupied by:

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

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

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

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

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

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

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

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

COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated 02/20/2014 - DO PASS, As Amended.

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