STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

HOUSE BILL 3250 By: Jordan

AS INTRODUCED

An Act relating to property; amending 60 O.S. 2011, Sections 523 and 853, which relate to assessments against owners of certain property; permitting action for failure to maintain drainage common elements; defining term; awarding attorney fees to prevailing party; permitting municipality to cure after notice to owners; directing costs be levied against owners; construing provision; and providing an effective date.

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

SECTION 1. AMENDATORY 60 O.S. 2011, Section 523, is amended to read as follows:

Section 523. A. Each unit, together with its proportionate interest in the common elements, shall constitute a separate and distinct unit for the purpose of assessment of taxes, special assessments, and other charges which may be lawfully assessed against owners of real property, and each holder of a unit ownership estate shall be liable solely for the amount of taxes against his individual estate and shall not be affected by the consequences resulting from the tax delinquency of other unit holders.

B. Should a council of unit owners fail to maintain common elements consisting of drainage easements or stormwater retention or detention areas that are under its administration, management or control pursuant to the Unit Ownership Estate Act (collectively referred to as "drainage common elements"), such that those drainage common elements should become or actually represent a danger to the public health, safety or welfare, or otherwise may become or actually represent a nuisance, then the municipality, county or agent thereof, or any person owning property adjoining the unit ownership estate or affected by the lack of administration, management or control may file an action in the district court of the county in which the unit ownership estate is situated for damages, injunctive relief, abatement or other available remedies at law. The prevailing party to the action shall be awarded reasonable attorney fees to be taxed as costs. Without limiting the foregoing, the applicable municipality, county or agent thereof, after reasonable notice to the owners of units within the unit ownership estate and a thirty-day opportunity to cure, may enter the drainage common elements and take all actions in the discretion of the municipality, county or agent thereof necessary to remedy the lack of administration, management or control, the costs of which shall be levied against each unit within the unit ownership estate in the ratio provided for in Section 505 of this title. Nothing contained in this subsection shall be construed to require a municipality,

county or agent to sell a unit for the unit's lack of payment of assessed administration, management or control costs.

SECTION 2. AMENDATORY 60 O.S. 2011, Section 853, is amended to read as follows:

Section 853. A. Each separately owned lot, parcel or area together with its proportionate interest in the common element, shall constitute a separate and distinct unit; for the purpose of assessment of taxes, special assessments, and other charges which may be lawfully assessed against owners of real property, and each holder of such shall be liable solely for the amount of taxes against his individual estate and shall not be affected by the consequences resulting from the tax delinquency of other unit holders.

B. Should an owners association or the owners of lots, parcels or other areas within a real estate development, as defined by Section 851 of this title, fail to maintain common areas, common elements or areas of common responsibility, however designated, consisting of drainage easements or stormwater retention or detention areas (collectively referred to as "drainage common areas"), that are under its administration, management or control such that those drainage common areas should become or actually represent a danger to the public health, safety or welfare, or otherwise may become or actually represent a nuisance, then the municipality, county or agent thereof, or any person owning property

adjoining the real estate development or affected by the lack of administration, maintenance or control may file an action in the district court of the county in which the real estate development is situated for damages, injunctive relief, abatement or other available remedies at law. The prevailing party to the action shall be awarded reasonable attorney fees to be taxed as costs. Without limiting the foregoing, the applicable municipality, county or agent thereof, after reasonable notice to the owners of lots, parcels or other areas within the real estate development and a thirty-day opportunity to cure, may enter the drainage common area and take all actions in the discretion of such municipality, county or agent thereof necessary to remedy the lack of administration, management or control, the costs of which shall be levied against each lot, parcel or other area within the real estate development on a pro rata basis. Nothing contained in this subsection shall be construed to require a municipality, county or agent to sell a lot, parcel or other area for the lot's, parcel's or other area's lack of payment of assessed administration, management or control costs.

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

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