

FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1691

			Of the printed Bill
Page	<u>2</u>	Section	<u>2</u>
		Lines	<u>5</u>
			Of the Engrossed Bill

By deleting Section 2 in its entirety and renumbering the subsequent sections; and

On Page 7, Line 8 by restoring the stricken word "the"; and

On Page 7, by deleting all of the new language beginning with the word "shall" on Line 8 and through the word "The" on Line 11; and

On Page 8, by restoring all of the stricken language beginning with the comma on Line 9 and through the word "owner" on Line 10; and

On Page 8, by deleting all of the new language beginning with the period on Line 10 and through the word "procedures" on Line 24; and

On Pages 9-10, by deleting all of the new language beginning with the comma on Page 9, Line 23 and through the comma on Page 10, Line 1; and

On Page 10, Line 10, by deleting the new language "on a competitive basis"; and

On Page 10, Line 11, by restoring the stricken language "If the payment is" and deleting the word "Payment"; and

On Page 10, Lines 12-17 by deleting all the new language beginning with the word "shall" on Line 12 through the word "points" on Line 17

On Page 11, Line 21 by inserting, after the word "law" and before the semicolon, the words ", with the same rights and priority of other lienholders"; and

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Kevin Calvey

Adopted: _____

Reading Clerk

On Page 12, Lines 8-10, by deleting all the new language beginning with the word "and" on Line 8 and through the comma on Line 10; and

On Page 12, Lines 14-15, by restoring the stricken language "without further prior notice to"; and

On Page 12, Line 15, by deleting the words "upon providing"; and

On Page 12, Lines 15-16, by deleting all the language beginning with the word "with" on Line 15 and through the word "abatement" on Line 16; and

By deleting Sections 4 and 5 in their entirety and inserting new Sections 4 and 5 to read as follows:

1 "SECTION 4. AMENDATORY 11 O.S. 2011, Section 22-112.1,

2 is amended to read as follows:

3 Section 22-112.1 A. After a building has been declared
4 dilapidated, as provided in Section 22-112 of this title, and before
5 the commencement of the tearing and removal of a dilapidated
6 building, the governing body of any municipality may authorize that
7 such a building be boarded and secured. However, if the dilapidated
8 building is vacant and unfit for human occupancy, the governing body
9 of any municipality may authorize the structure to be demolished
10 pursuant to Section 22-112 of this title.

11 B. A governing body of any municipality may cause the premises
12 on which an unsecured building is located to be cleaned of trash and
13 weeds in accordance with the provisions of Section 22-111 of this
14 title.

15 C. A governing body of any municipality may cause an unsecured
16 building to be boarded and secured in accordance with the following
17 procedures:

18 1. Before the governing body orders such action, at least ten
19 (10) days' notice that such unsecured building is to be boarded and
20 secured shall be given by mail to any property owners and mortgage
21 holders as provided in Section 22-112 of this title. At the time of
22 mailing of notice to any property owner or mortgage holder, the
23 municipality shall obtain a receipt of mailing from the postal
24 service, which receipt shall indicate the date of mailing and the

1 name and address of the mailee. A copy of the notice shall also be
2 posted on the property to be affected. However, if neither the
3 property owner nor mortgage holder can be located, notice may be
4 given by posting a copy of the notice on the property or by
5 publication as defined in Section 1-102 of this title. Such notice
6 shall be published one time, not less than ten (10) days prior to
7 any hearing or action by the municipality pursuant to the provisions
8 of this section. If a municipal governing body anticipates summary
9 abatement of a nuisance in accordance with the provisions of
10 paragraph 9 of this subsection, the notice shall state: that any
11 subsequent need for boarding and securing the building within a six-
12 month period after the initial boarding and securing of the building
13 pursuant to such notice may be summarily boarded and secured by the
14 municipal governing body; that the costs of such boarding and
15 securing shall be assessed against the owner; and that a lien may be
16 imposed on the property to secure such payment, all without further
17 prior notice to the property owner or mortgage holder;

18 2. The owner of the property may give written consent to the
19 municipality authorizing the boarding and securing of such unsecured
20 building and to the payment of any costs incurred thereby. By
21 giving written consent, the owner waives any right the owner has to
22 a hearing by the municipal governing body;

23 3. If the property owner does not give written consent to such
24 actions, a hearing may be held by the municipal governing body to

1 determine whether the boarding and securing of such unsecured
2 building would promote and benefit the public health, safety or
3 welfare. Such hearing may be held in conjunction with a hearing on
4 the accumulation of trash or the growth of weeds or grass on the
5 premises of such unsecured building held pursuant to the provisions
6 of paragraph 3 of subsection A of Section 22-111 of this title. In
7 making such determination, the governing body shall apply the
8 following standard: the governing body may order the boarding and
9 securing of the unsecured building when the boarding and securing
10 thereof would make such building less available for transient
11 occupation, decrease a fire hazard created by such building, or
12 decrease the hazard that such building would constitute an
13 attractive nuisance to children.

14 Upon making the required determination, the municipal governing
15 body may order the boarding and securing of the unsecured building;

16 4. After the governing body orders the boarding and securing of
17 such unsecured building, the municipal clerk shall immediately file
18 a notice of unsecured building and lien with the county clerk
19 describing the property, stating the findings of the municipality at
20 the hearing at which such building was determined to be unsecured,
21 and stating that the municipality claims a lien on the property for
22 the costs of boarding and securing such building and that such costs
23 are the personal obligation of the property owner from and after the
24 date of filing the notice;

1 5. Pursuant to the order of the governing body, the agents of
2 the municipality are granted the right of entry on the property for
3 the performance of the boarding and securing of such building and
4 for the performance of all necessary duties as a governmental
5 function of the municipality;

6 6. After an unsecured building has been boarded and secured,
7 the governing body shall determine the actual costs of such actions
8 and any other expenses that may be necessary in conjunction
9 therewith including the cost of the notice and mailing. The
10 municipal clerk shall forward a statement of the actual costs
11 attributable to the boarding and securing of the unsecured building
12 and a demand for payment of such costs, by mail to any property
13 owners and mortgage holders as provided in Section 22-112 of this
14 title. At the time of mailing of the statement of costs to any
15 property owner or mortgage holder, the municipality shall obtain a
16 receipt of mailing from the postal service, which receipt shall
17 indicate the date of mailing and the name and address of the mailee.

18 If a municipality boards and secures any unsecured building, the
19 cost to the property owner shall not exceed the actual cost of the
20 labor, materials and equipment required for the performance of such
21 actions. If such actions are done on a private contract basis, the
22 contract shall be awarded to the lowest and best bidder;

23 7. When payment is made to the municipality for costs incurred,
24 the municipal clerk shall file a release of lien, but if payment

1 attributable to the actual costs of the boarding and securing of the
2 unsecured building is not made within thirty (30) days from the date
3 of the mailing of the statement to the owner of such property, the
4 ~~municipal clerk shall forward a certified statement of the amount of~~
5 ~~the costs to the county treasurer of the county in which the~~
6 ~~property is located. Once certified to the county treasurer,~~
7 ~~payment may only be made to the county treasurer except as otherwise~~
8 ~~provided for in this section. At the time of collection the county~~
9 ~~treasurer shall collect a fee of Five Dollars (\$5.00) for each~~
10 ~~parcel of property and such fee shall be deposited to the general~~
11 ~~fund of the county. The costs shall be levied on the property and~~
12 ~~collected by the county treasurer as are other taxes authorized by~~
13 ~~law. Until fully paid, the costs and the interest thereon shall be~~
14 ~~the personal obligation of the property owner from and after the~~
15 ~~date the notice of unsecured building and lien is filed with the~~
16 ~~county clerk. In addition the costs and the interest thereon shall~~
17 ~~be a lien against the property from the date the notice of the lien~~
18 ~~is filed with the county clerk. The lien shall be coequal with the~~
19 ~~lien of ad valorem taxes and all other taxes and special assessments~~
20 ~~and shall be prior and superior to all other titles and liens~~
21 ~~against the property. The lien shall continue until the costs and~~
22 ~~interest are fully paid. If the county treasurer and the~~
23 ~~municipality agree that the county treasurer is unable to collect~~
24 ~~the assessment, the municipality may pursue a civil remedy for~~

1 ~~collection of the amount owing and interest thereon by an action in~~
2 ~~personam against the property owner and an action in rem to~~
3 ~~foreclose its lien against the property. A mineral interest if~~
4 ~~severed from the surface owner, shall not be subject to any tax or~~
5 ~~judgment lien created pursuant to this section~~ municipality may file
6 a lien, assignable at the municipality's discretion, with the county
7 clerk in the manner prescribed for other lienholders by law, with
8 the same rights and priority of other lienholders. Upon receiving
9 payment, the municipal clerk shall forward to the county treasurer a
10 notice of such payment and shall direct discharge of the lien;

11 8. The municipality may designate by ordinance an
12 administrative officer or administrative body to carry out the
13 duties of the governing body specified in subsection C of this
14 section. The property owner or mortgage holder shall have a right
15 of appeal to the municipal governing body from any order of the
16 administrative officer or administrative body. Such appeal shall be
17 taken by filing written notice of appeal with the municipal clerk
18 within ten (10) days after the administrative order is rendered;

19 9. If a municipal governing body causes a structure within the
20 municipal limits to be boarded and secured, any subsequent need for
21 boarding and securing within a six-month period constitutes a public
22 nuisance and may be summarily boarded and secured without further
23 prior notice to the property owner or mortgage holder. At the time
24 of each such summary boarding and securing, the municipality shall

1 notify the property owner and mortgage holder of the boarding and
2 securing and the costs thereof. The notice shall state that the
3 property owner may request an appeal with the municipal clerk within
4 ten (10) days after the mailing of the notice. The notice and
5 hearing shall be as provided for in paragraph 1 of this subsection.
6 Unless otherwise determined at the hearing the cost of such boarding
7 and securing shall be determined and collected as provided for in
8 paragraphs 6 and 7 of this subsection;

9 10. A governing body of any municipality may determine that a
10 building is unsecured and order that such building be boarded and
11 secured in the manner provided for in this subsection even though
12 such building has not been declared, by the governing body, to be
13 dilapidated; and

14 11. For the purposes of this subsection:

- 15 a. "boarding and securing" or "boarded and secured" means
16 the closing, boarding or locking of any or all
17 exterior openings so as to prevent entry into the
18 structure,
- 19 b. "unsecured building" shall mean any structure which is
20 not occupied by a legal or equitable owner thereof, or
21 by a lessee of a legal or equitable owner, and into
22 which there are one or more unsecured openings such as
23 broken windows, unlocked windows, broken doors,
24 unlocked doors, holes in exterior walls, holes in the

1 roof, broken basement or cellar hatchways, unlocked
2 basement or cellar hatchways or other similar
3 unsecured openings which would facilitate an
4 unauthorized entry into the structure, and

5 c. "unfit for human occupancy" means a structure that due
6 to lack of necessary repairs is considered
7 uninhabitable and is a hazard to the health, safety,
8 and welfare of the general public.

9 D. The provisions of this section shall not apply to any
10 property zoned and used for agricultural purposes.

11 SECTION 5. AMENDATORY Section 3, Chapter 326, O.S.L.
12 2014 (11 O.S. Supp. 2016, Section 22-112.4), is amended to read as
13 follows:

14 Section 22-112.4 A. An abandoned building shall constitute a
15 public nuisance because it:

16 1. Is detrimental to the public health, safety or welfare of
17 the inhabitants of and visitors to the municipality;

18 2. Causes increased municipal regulatory costs and increased
19 municipal police and fire protection costs; and

20 3. Devalues abutting and nearby real properties.

21 B. A municipal governing body may abate the public nuisance
22 caused by an abandoned building within the municipal limits in
23 accordance with the following procedures:
24

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

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

22 3. Pursuant to a determination that the building is an
23 abandoned building, the governing body may order the agents of the
24 municipality to pursue abatement of the public nuisance caused by

1 the building and shall order the municipal clerk to place the
2 building on an abandoned building list to be maintained by the
3 clerk. At any time after such determination and order, the agents
4 of the municipality may cause the public nuisance to be abated as
5 authorized in this section, and such abatement may continue until
6 such time as the building is removed from the abandoned building
7 list in accordance with the procedures set forth in subsection C of
8 this section;

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

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

21 b. the quarterly assessment against the property on which
22 the abandoned building is located and against the
23 owner of the abandoned building of the actual costs of
24 any municipal regulatory action taken in relation to

1 the abandoned building or the owner of such building
2 as authorized above,

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

9 d. an assessment for any other actual expenses incurred
10 by the municipality in relation to the abandoned
11 building, including, but not limited to, the costs of
12 notices, mailings and publications;

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

22 6. From and after the determination that a building is an
23 abandoned building, and continuing until such time as the building
24 is removed from the abandoned building list in accordance with the

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

14 7. When full payment is made to the municipal clerk for actual
15 abatement costs incurred and billed in accordance with paragraph 6
16 of this subsection, the municipal clerk shall send the property
17 owner and any mortgage holder by mail a receipt for such payment;
18 but if payment attributable to the actual quarterly costs of such
19 abatement is not made within six (6) months from the date of the
20 mailing of the statement to the owner of such property, a lien in
21 the actual amount of the abatement shall be filed against the
22 abandoned building, assignable at the municipality's discretion,
23 with the county clerk in the manner prescribed for other lienholders
24 by law, with the same rights and priority of other lienholders.

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

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

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

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

20 E. For purposes of this section:

21 1. "Abandoned building" means any building located within the
22 municipality that is not currently occupied and has been declared
23 unsecured or dilapidated pursuant to Section 22-112 or 22-112.1 of
24

1 ~~Title 11 of the Oklahoma Statutes~~ this title and remains in such
2 condition; and

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

5 F. The provisions of this section shall not apply to any
6 property zoned and used for agricultural purposes.

7 G. The officers, employees or agents of the municipality shall
8 not be liable for any damages or loss of property due to the
9 abatement of the public nuisance caused by an abandoned building
10 performed pursuant to the provisions of this section or as otherwise
11 provided by law."

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13 56-1-7283 AMM 03/07/17

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