

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 4013

By: **Kannady**

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to cities and towns; amending 11 O.S.
10 2011, Section 22-112, which relates to condemnation
11 procedures; modifying certain definition; and
12 providing an effective date.

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

15 SECTION 1. AMENDATORY 11 O.S. 2011, Section 22-112, is
16 amended to read as follows:

17 Section 22-112. A. A municipal governing body may cause
18 dilapidated buildings within the municipal limits to be torn down
19 and removed in accordance with the following procedures:

20 1. At least ten (10) days' notice that a building is to be torn
21 down or removed shall be given to the owner of the property before
22 the governing body holds a hearing. A copy of the notice shall be
23 posted on the property to be affected. In addition, a copy of the
24 notice shall be sent by mail to the property owner at the address

1 shown by the current year's tax rolls in the office of the county
2 treasurer. Written notice shall also be mailed to any mortgage
3 holder as shown by the records in the office of the county clerk to
4 the last-known address of the mortgagee. At the time of mailing of
5 notice to any property owner or mortgage holder, the municipality
6 shall obtain a receipt of mailing from the postal service, which
7 receipt shall indicate the date of mailing and the name and address
8 of the mailee. However, if neither the property owner nor mortgage
9 holder can be located, notice may be given by posting a copy of the
10 notice on the property, or by publication as defined in Section 1-
11 102 of this title. The notice may be published once not less than
12 ten (10) days prior to any hearing or action by the municipality
13 pursuant to the provisions of this section;

14 2. A hearing shall be held by the governing body to determine
15 if the property is dilapidated and has become detrimental to the
16 health, safety, or welfare of the general public and the community,
17 or if the property creates a fire hazard which is dangerous to other
18 property;

19 3. Pursuant to a finding that the condition of the property
20 constitutes a detriment or a hazard and that the property would be
21 benefited by the removal of such conditions, the governing body may
22 cause the dilapidated building to be torn down and removed. The
23 governing body shall fix reasonable dates for the commencement and
24 completion of the work. The municipal clerk shall immediately file

1 a notice of dilapidation and lien with the county clerk describing
2 the property, the findings of the municipality at the hearing, and
3 stating that the municipality claims a lien on the property for the
4 destruction and removal costs and that such costs are the personal
5 obligation of the property owner from and after the date of filing
6 of the notice. The agents of the municipality are granted the right
7 of entry on the property for the performance of the necessary duties
8 as a governmental function of the municipality if the work is not
9 performed by the property owner within dates fixed by the governing
10 body. Any action to challenge the order of the municipal governing
11 body shall be filed within thirty (30) business days from the date
12 of the order;

13 4. The governing body shall determine the actual cost of the
14 dismantling and removal of dilapidated buildings and any other
15 expenses that may be necessary in conjunction with the dismantling
16 and removal of the buildings, including the cost of notice and
17 mailing. The municipal clerk shall forward a statement of the
18 actual cost attributable to the dismantling and removal of the
19 buildings and a demand for payment of such costs, by mail to the
20 property owner. In addition, a copy of the statement shall be
21 mailed to any mortgage holder at the address provided for in
22 paragraph 1 of this subsection. At the time of mailing of the
23 statement of costs to any property owner or mortgage holder, the
24 municipality shall obtain a receipt of mailing from the postal

1 service, which receipt shall indicate the date of mailing and the
2 name and address of the mailee. If a municipality dismantles or
3 removes any dilapidated buildings, the cost to the property owner
4 shall not exceed the actual cost of the labor, maintenance, and
5 equipment required for the dismantling and removal of the
6 dilapidated buildings. If dismantling and removal of the
7 dilapidated buildings is done on a private contract basis, the
8 contract shall be awarded to the lowest and best bidder; and

9 5. When payment is made to the municipality for costs incurred,
10 the municipal clerk shall file a release of lien, but if payment
11 attributable to the actual cost of the dismantling and removal of
12 the buildings is not made within six (6) months from the date of the
13 mailing of the statement to the owner of such property, the
14 municipal clerk shall forward a certified statement of the amount of
15 the cost to the county treasurer of the county in which the property
16 is located. Once certified to the county treasurer, payment may
17 only be made to the county treasurer except as otherwise provided
18 for in this section. The costs shall be levied on the property and
19 collected by the county treasurer as are other taxes authorized by
20 law. Until finally paid, the costs and the interest thereon shall
21 be the personal obligation of the property owner from and after the
22 date of the notice of dilapidation and lien is filed with the county
23 clerk. In addition the cost and the interest thereon shall be a
24 lien against the property from the date the notice of the lien is

1 filed with the county clerk. The lien shall be coequal with the
2 lien of ad valorem taxes and all other taxes and special assessments
3 and shall be prior and superior to all other titles and liens
4 against the property. The lien shall continue until the cost is
5 fully paid. At the time of collection, the county treasurer shall
6 collect a fee of Five Dollars (\$5.00) for each parcel of property.
7 The fee shall be deposited to the credit of the general fund of the
8 county. If the county treasurer and the municipality agree that the
9 county treasurer is unable to collect the assessment, the
10 municipality may pursue a civil remedy for collection of the amount
11 owing and interest thereon including an action in personam against
12 the property owner and an action in rem to foreclose its lien
13 against the property. A mineral interest, if severed from the
14 surface interest and not owned by the surface owner, shall not be
15 subject to any tax or judgment lien created pursuant to this
16 section. Upon receiving payment, the municipal clerk shall forward
17 to the county treasurer a notice of such payment and shall direct
18 discharge of the lien.

19 B. The municipality may designate, by ordinance, an
20 administrative officer or administrative body to carry out the
21 duties of the governing body specified in this section. The
22 property owner shall have the right of appeal to the municipal
23 governing body from any order of the administrative officer or
24 administrative body. Such appeal shall be taken by filing written

1 notice of appeal with the municipal clerk within ten (10) days after
2 the administrative order is rendered.

3 C. For the purposes of this section:

4 1. "Dilapidated building" means:

- 5 a. a structure which through neglect or injury lacks
6 necessary repairs or otherwise is in a state of decay
7 or partial ruin to such an extent that the structure
8 is a hazard to the health, safety, or welfare of the
9 general public,
- 10 b. a structure which is unfit for human occupancy due to
11 the lack of necessary repairs and is considered
12 uninhabitable or is a hazard to the health, safety,
13 and welfare of the general public,
- 14 c. a structure which is determined by the municipal
15 governing body or administrative officer of the
16 municipal governing body to be an unsecured building,
17 as defined by Section 22-112.1 of this title, more
18 than three times within any twelve-month period,
- 19 d. a structure which has been boarded and secured, as
20 defined by Section 22-112.1 of this title, for more
21 than ~~eighteen (18)~~ six (6) consecutive months, or
- 22 e. a structure declared by the municipal governing body
23 to constitute a public nuisance; and
24

1 2. "Owner" means the owner of record as shown by the most
2 current tax rolls of the county treasurer.

3 D. Nothing in the provisions of this section shall prevent the
4 municipality from abating a dilapidated building as a nuisance or
5 otherwise exercising its police power to protect the health, safety,
6 or welfare of the general public.

7 E. The officers, employees or agents of the municipality shall
8 not be liable for any damages or loss of property due to the removal
9 of dilapidated buildings performed pursuant to the provisions of
10 this section or as otherwise prescribed by law.

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

13 SECTION 2. This act shall become effective November 1, 2020.

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15 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/26/2020 - DO
16 PASS, As Amended and Coauthored.