

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 HOUSE BILL 1177

 By: Perryman

7 AS INTRODUCED

8 An Act relating to cities and towns; amending Section
9 3, Chapter 326, O.S.L. 2014 (11 O.S. Supp. 2018,
10 Section 22-112.4), which relates to abandoned
11 buildings; authorizing certain fire protection action
12 by certain state and county entities at the request
13 of a municipality; and providing an effective date.

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

15 SECTION 1. AMENDATORY Section 3, Chapter 326, O.S.L.
16 2014 (11 O.S. Supp. 2018, Section 22-112.4), is amended to read as
17 follows:

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

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

22 2. Causes increased municipal regulatory costs and increased
23 municipal police and fire protection costs; and

24 3. Devalues abutting and nearby real properties.

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

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

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

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

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

14 a. any lawful municipal regulatory or municipal police
15 and fire protection action in relation to the
16 abandoned building or the owner of such building
17 necessary or appropriate for the protection of
18 inhabitants in and visitors to the municipality. Upon
19 receipt of any necessary warrant to authorize such
20 action, the agents of the municipality are granted the
21 right of entry onto the property for the performance
22 of any such action as a governmental function of the
23 municipality. Such action may be performed by the
24 State Fire Marshal or agents of a county fire

1 department or fire protection district at the request
2 of the municipality,

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

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

15 d. an assessment for any other actual expenses incurred
16 by the municipality in relation to the abandoned
17 building, including, but not limited to, the costs of
18 notices, mailings and publications;

19 5. After the determination that a building is an abandoned
20 building, and before commencement of any of the abatement actions
21 authorized by paragraphs 3 and 4 of this subsection, the municipal
22 clerk shall file a notice of lien with the county clerk describing
23 the property, the findings of the governing body at the hearing, and
24 stating that the municipality claims a lien on the property for all

1 abatement costs and that such costs shall also constitute the
2 personal obligation of the property owner from and after the date of
3 filing of the notice;

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

20 7. When full payment is made to the municipal clerk for actual
21 abatement costs incurred and billed in accordance with paragraph 6
22 of this subsection, the municipal clerk shall send the property
23 owner and any mortgage holder by mail a receipt for such payment;
24 but if payment attributable to the actual quarterly costs of such

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

18 C. Any owner or mortgage holder of any building determined by
19 the governing body of the municipality to be an abandoned building
20 pursuant to this section may petition the governing body in writing
21 at any time after such determination for removal of such building
22 from the abandoned building list maintained by the municipal clerk.
23 Any such petition shall be filed with the municipal clerk. Within
24 thirty (30) days after such petition is filed with the municipal

1 clerk, the governing body shall hold a hearing to determine if the
2 building is no longer an abandoned building. Upon such a
3 determination, the governing body shall order the building removed
4 from the abandoned building list. The municipal clerk shall comply
5 with such order by removing the building from the abandoned building
6 list; provided, the real property on which the abandoned building is
7 located and the owner of such building shall remain liable for
8 payment of any and all abatement costs incurred by the municipality
9 prior to the determination and order by the governing body that the
10 building should be removed from the abandoned building list. Upon
11 full payment of any costs certified against the property, the
12 municipal clerk shall file a release of the notice of the lien in
13 the county clerk's office within ten (10) days after receiving such
14 payment.

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

24 E. For purposes of this section:

1 1. "Abandoned building" means any building located within the
2 municipality that is not currently occupied and has been declared
3 unsecured or dilapidated pursuant to Section 22-112 or 22-112.1 of
4 Title 11 of the Oklahoma Statutes and remains in such condition; and

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

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

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

14 SECTION 2. This act shall become effective November 1, 2019.

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16 COMMITTEE REPORT BY: COMMITTEE ON COUNTY AND MUNICIPAL GOVERNMENT,
17 dated 02/14/2019 - DO PASS.

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