



TESTIMONY

HB 2314 – An Act concerning cities; relating to the rehabilitation of abandoned property

**House Commerce, Labor and Economic Development Committee
February 22, 2019**

**Whitney Damron
On behalf of the City of Topeka**

PROPONENT

Chairman Tarwater and Members of the Committee:

I am Whitney Damron and I appear before you today on behalf of the City of Topeka in support of HB 2314 relating to abandoned property.

The City of Topeka has been supportive of statutory enactments to enhance neighborhoods, improve public safety and preserve abandoned structures for several years. A similar bill to the one before you was passed by the 2016 Legislature in the Senate by a vote of 32-8 and the House on a vote of 79-44. Governor Brownback vetoed the bill and thus SB 338 did not make it into the statute book.

A similar bill was passed by the House in 2018 on a vote of 90-32. The bill was not advanced in the Senate. We believe there remains a need to address abandoned housing issues by the Kansas Legislature now just as there has been in years' past. Similar bills have been debated in the Legislature since at least 2014 and the subject remains of great importance to cities in Kansas.

The reasons cities and others keep returning to the Legislature for support of this legislation is there are no other effective tools in statute that cities have been able to use to deal with properties that are truly abandoned, where the owner or owners cannot be found or respond to process and the property has become dilapidated, is in an unsafe condition and has a blighting influence on surrounding property as defined in the bill.

Abandoned structures are not commonplace in Topeka, but they do exist and effectively dealing with them is a procedural challenge. When you have a property with unclear ownership, unresponsive mortgage or interest owners and are unable to bring about owner responsibility for a property, it is not the interest owner who suffers, but rather the neighbors and neighborhood who must deal with the consequences.

These properties are also present a safety risk for police, fire and other public safety employees who must enter these structures to confirm whether any individuals are present in the structure when responding to emergencies or complaints. For example, the fire department must presume any structure could have an occupant until confirmed otherwise. Entering an unsafe structure when the building is on fire has the potential for a dangerous situation for first responders.

919 South Kansas Avenue ■ Topeka, Kansas 66612-1210

(785) 354-1354 (O) ■ (785) 354-8092 (F) ■ (785) 224-6666 (M)

www.wbdpa.com ■ wbdamron@gmail.com

HB 2314 would allow a city to work with local nonprofit agencies to identify abandoned properties for potential rehabilitation. The bill defines the criteria that must be followed in order to make use of this legislation, which includes a legal process to determine if a residential property is abandoned, if it has a blighting influence in surrounding structures and if there is a qualified housing-related organization willing to accept responsibility for the property.

Once a property is identified as abandoned and a candidate for this legislative process, a petition must be filed with the district court where the property is located.

A petition to the district court must include the following information:

- History of municipal utility service for the property for the preceding 365 days;
- History of property tax payments for the preceding three years;
- History of code violations for the preceding two years and efforts of the city to remedy such code violations;
- History of attempts to notify the last owner or owners of any enforcement action(s); and,
- History of actions by other governmental entities, including, but not limited to tax liens or bankruptcy proceedings (e.g., public safety calls, criminal activity, etc.).

The bill as drafted does not allow a nonprofit to take possession of the property indefinitely. In at least a year and not more than two years, the nonprofit who takes possession of such a property must petition the court for a quiet title and set in motion the process to get the property back into private hands.

The City of Topeka appreciates the opportunity to stand in support of this legislation. HB 2314 is not a cure all for abandoned property problems facing cities in Kansas. However, it is possible this legislation can help preserve a neighborhood at risk for suffering the ill-effects of an abandoned property by giving cities a tool to intercede in instances where a property is determined to be by the court to be abandoned.

We are not talking about properties in which owners are merely delinquent in the payment of property taxes; we are talking about properties with no owner who can be located, the property is in a state of disrepair and having negative consequences on neighbors and the public safety.

On behalf of the City of Topeka, we ask the Committee to favorably move HB 2314 out of committee.

Whitney Damron