

As Amended by House Committee

Session of 2019

HOUSE BILL No. 2314

By Committee on Commerce, Labor and Economic Development

2-13

1 AN ACT concerning cities; relating to the rehabilitation of abandoned  
2 property; amending K.S.A. 2018 Supp. 12-1750 and 12-1756a and  
3 repealing the existing sections; also repealing K.S.A. 2018 Supp. 12-  
4 1756e.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2018 Supp. 12-1750 is hereby amended to read as  
8 follows: 12-1750. As used in this act:

9 (a) "Structure" means any building, wall or other structure.

10 (b) "Enforcing officer" means the building inspector or other officer  
11 designated by ordinance and charged with the administration of the  
12 provisions of this act.

13 (c) "Abandoned property" means:

14 (1) Any residential real estate for which taxes are delinquent for the  
15 preceding two years and ~~which~~ *that* has been unoccupied continuously by  
16 persons legally in possession for the preceding 90 days; ~~or~~

17 (2) *any residential real estate that has been unoccupied continuously*  
18 *by persons legally in possession for the preceding 365 days and that has a*  
19 *blighting influence on surrounding properties, unless the exterior of the*  
20 *property is being maintained and the property is either the subject of a*  
21 *probate action, action to quiet title or other ownership dispute, or the*  
22 *property is subject to a mortgage; or*

23 (3) commercial real estate for which the taxes are delinquent for the  
24 preceding two years and which has a blighting influence on surrounding  
25 properties. "Commercial real estate" means any real estate for ~~which~~ *that*  
26 the present *approved* use is other than one to four residential units or for  
27 agricultural purposes.

28 (d) "Blighting influence" means conditions in such structure ~~which~~  
29 *that* are dangerous or injurious to the health, safety or ~~morals~~ *welfare* of  
30 the occupants of such buildings or other residents of the municipality ~~or~~  
31 ~~which have an adverse impact on properties in the area.~~ Such conditions  
32 may include, but are not limited to, the following: Defects increasing the  
33 hazards of fire, accident, or other calamities; air pollution; ~~light or lack of~~  
34 sanitary facilities; dilapidation; disrepair; structural defects; ~~uncleanliness;~~  
35 ~~dead and dying trees, limbs or other unsightly natural growth or unsightly~~  
36 ~~appearances that constitute a blight to adjoining property, the~~

1 neighborhood or the city; walls, sidings or exteriors of a quality and  
2 appearance not commensurate with the character of the properties in the  
3 neighborhood; unsightly stored or parked material, equipment, supplies,  
4 machinery, trucks or automobiles or parts thereof; vermin infestation;  
5 ~~inadequate drainage~~; or any violation of health, fire, building or property  
6 maintenance codes or zoning regulations that constitute a health or safety  
7 threat.

8 (e) "Organization" means any nonprofit corporation organized under  
9 the laws of this state ~~and which~~ that has among its purposes the  
10 improvement of housing and has been in existence for a period of three  
11 years or more.

12 (f) "Rehabilitation" means the process of improving the property into  
13 compliance with applicable fire, housing and building codes.

14 (g) "Parties in interest" means any owner or owners of record,  
15 judgment creditor, tax purchaser or other party having any legal or  
16 equitable title or interest in the property.

17 (h) "Last known address" includes the address where the property is  
18 located, or the address as listed in the tax records.

19 (i) *The provisions of subsection (c)(2) shall expire on July 1, 2023.*

20 Sec. 2. K.S.A. 2018 Supp. 12-1756a is hereby amended to read as  
21 follows: 12-1756a. (a) (1) An organization may file a petition with the  
22 district court for an order for temporary possession of property if:

23 ~~(1)-(A)~~ (A) The property meets the definition of abandoned as set forth in  
24 K.S.A. 12-1750, and amendments thereto;

25 ~~(2)-(B)~~ (B) the organization intends to rehabilitate the property and use  
26 the property as housing or if the petition is filed prior to July 1, 2023, for  
27 ancillary facilities relating to housing, including infrastructure, parks and  
28 parking facilities; and

29 ~~(3)-(C)~~ (C) the organization has sent notice to the enforcing officer and  
30 the parties in interest of the property, by certified or registered mail, mailed  
31 to their last known address and posted on the property at least 20 days but  
32 not more than 60 days before the date the petition is filed, of the  
33 organization's intent to file a petition for possession under K.S.A. 12-1750  
34 through ~~12-1756e~~ 12-1756d, and amendments thereto.

35 (2) Prior to July 1, 2023, the governing body of any city may file a  
36 petition with the district court for an order for **sale and for temporary**  
37 possession of property if:

38 (A) The property meets the definition of abandoned in K.S.A. 12-  
39 1750, and amendments thereto;

40 (B) the governing body of the city filing a petition under this section  
41 has designated an organization to rehabilitate the property;

42 (C) such designated organization intends to rehabilitate the property  
43 and use the property as housing or for ancillary facilities related to

1 *housing, including, but not limited to, infrastructure, open space, parks or*  
2 *parking facilities;*

3 *(D) the governing body of the city filing the petition under this*  
4 *section has sent notice to the enforcing officer and the parties in interest of*  
5 *the property, by certified or registered mail, mailed to their last known*  
6 *address and posted on their property at least 20 days but not more than 60*  
7 *days before the date the petition is filed, of the governing body's intent to*  
8 *file a petition for **sale and for temporary possession under K.S.A. 12-1750***  
9 *through 12-1756d, and amendments thereto; and*

10 *(E) the governing body of the city filing the petition under this section*  
11 *has formally approved the filing of the petition.*

12 (b) (1) The proceeding shall be commenced by filing a verified  
13 petition in the district court in the county in which the property is located.  
14 The petition shall state that the conditions specified in subsection (a) exist.  
15 All parties in interest of the property shall be named as defendants in the  
16 petition.

17 (2) *The petition shall include the following information:*

18 (A) *The history of municipal utility service for the property for the*  
19 *preceding 365 days or longer;*

20 (B) *the history of property tax payments for the preceding three years*  
21 *or longer;*

22 (C) *the history of code violations for the preceding two years or*  
23 *longer and efforts by the city to remedy the code violations;*

24 (D) *the history of attempts to notify the last known owner or owners*  
25 *of any enforcement action or actions; and*

26 (E) *the history of actions taken by other governmental entities*  
27 *regarding the property, including, but not limited to, tax liens or*  
28 *bankruptcy proceedings.*

29 (3) Summons shall be issued and service shall be made pursuant to  
30 K.S.A. 60-303, and amendments thereto. Service may be made by  
31 publication if the organization *or the governing body of a city* with due  
32 diligence is unable to make service of summons upon a defendant pursuant  
33 to ~~subsection (a)(3) of~~ K.S.A. 60-307(a)(3), and amendments thereto.

34 (c) Any defendant may file as part of such defendant's answer, as an  
35 affirmative defense, a plan for the rehabilitation of the property and  
36 evidence of capacity and resources necessary to complete rehabilitation of  
37 the property. The court shall grant the defendant 90 days to bring the  
38 property into compliance with applicable fire, housing and building codes  
39 and to pay all delinquent ad valorem property tax. For good cause shown,  
40 the court may extend the ninety-day compliance period ~~for an additional~~  
41 ~~90 days.~~ If the property is brought into such compliance within the ninety-  
42 day period or extension of time thereof, the petition shall be dismissed. If  
43 the defendant fails to bring the property into such compliance within the

1 ninety-day period or extension of time thereof, or if the defendant's plan is  
2 otherwise insufficient, the defendant's affirmative defense shall be  
3 stricken. *In no case shall the defendant's affirmative defense be stricken*  
4 *solely on the basis of delinquent property taxes.*

5 (d) At the hearing ~~on the organization's~~ a petition filed in accordance  
6 with, and as permitted by, subsection (a), the petitioning organization or  
7 governing body of a city shall submit to the court a plan for the  
8 rehabilitation of the property and present evidence that the organization  
9 has adequate resources to rehabilitate and thereafter manage the property.  
10 For the purpose of developing such a plan, representatives of the  
11 organization *or the governing body of a city* may be permitted entry onto  
12 the property by the court at such times and on such terms as the court may  
13 deem appropriate.

14 (e) The court shall make its own determination as to whether the  
15 property is in fact abandoned consistent with the terms of K.S.A. 12-1750  
16 through ~~12-1756e~~ 12-1756d, and amendments thereto.

17 (f) **If the court determines the property is abandoned pursuant to**  
18 **subsection (e), the court shall order the property immediately sold**  
19 **without delay by public auction in the manner prescribed for sale of**  
20 **property at a judicial tax foreclosure sale pursuant to K.S.A. 79-2801**  
21 **et seq., and amendments thereto, subject to the provisions of**  
22 **subsection (g). Proceeds of the sale shall be first allocated to court**  
23 **costs, fees and sale costs and then to satisfy any property tax debt. Any**  
24 **proceeds remaining shall be set aside for the property owner.**

25 (g) (1) Any party, other than the petitioning city, may seek to  
26 purchase the property pursuant to a public auction under subsection  
27 (f). The party shall submit a rehabilitation plan for the property to the  
28 court and a petition for temporary possession of the property. A bid by  
29 the petitioning organization shall be governed by paragraph (2). The  
30 petition for temporary possession shall set forth the party's intent to  
31 rehabilitate the property and set forth evidence that the party has  
32 adequate resources to rehabilitate the property, but need not meet the  
33 petition requirements of subsection (a) or (b). For the purpose of  
34 developing such a plan, representatives of the party may be permitted  
35 entry onto the property by the court at such times and on such terms  
36 as the court may deem appropriate. If the court approves the party's  
37 rehabilitation plan and petition for temporary possession, and the  
38 party submits the winning bid for the property, the court may grant  
39 temporary possession of the property to the party. The grant of title of  
40 the property to the party shall be contingent on the party successfully  
41 completing the plan of rehabilitation of the property approved by the  
42 court, as provided by subsection (h).

43 (2) The petitioning organization may, but shall not be required to,

1 **bid on the property at the public auction. If the petitioning**  
2 **organization submits the winning bid, the court may enter an order**  
3 **approving the rehabilitation plan of the petitioning organization and**  
4 **grant temporary possession of the property to the petitioning**  
5 **organization. The grant of title to the property to the petitioning**  
6 **organization, shall be contingent upon successful completion of the**  
7 **plan of rehabilitation of the property approved by the court, as**  
8 **provided by subsection (h).**

9 ~~(h)~~ **(h)** **If no bid is approved by the court at the public auction**  
10 **pursuant to subsections (f) and (g) and if the court approves the petition**  
11 **filed by the petitioning organization or by the governing body of a city**  
12 **pursuant to subsection (a) or (b), the court shall may enter an order**  
13 **approving the rehabilitation plan submitted with the petition and**  
14 **granting temporary possession of the property to the petitioning**  
15 **organization or governing body of a city. The organization, subject to court**  
16 **approval, may enter into leases or other agreements in relation to the**  
17 **property.—Whether the court approves or denies the petition, the**  
18 **organization shall provide the governing body of a city a copy of the order**  
19 **within 30 days of the organization's receipt or knowledge of such order.**

20 ~~(g)~~ **(i)** **(1) Not less than 365 days nor more than 730 days after**  
21 **receiving temporary possession of property by an order of the court upon**  
22 **a petition for temporary possession,—a a designated or petitioning**  
23 **organization or the private party shall seek quiet title to such property by**  
24 **petition to the court. The petitioner for quiet title shall send notice of**  
25 **intent to file the petition to the parties of interest of the property, by**  
26 **certified or registered mail, mailed to their last known address at least 20**  
27 **days but not more than 60 days before the date the petition is filed.**

28 **(2) Upon a finding by the court that the property has been**  
29 **rehabilitated in accordance with the approved rehabilitation plan, the**  
30 **court shall grant the petition for quiet title. If no petition for quiet title is**  
31 **filed as permitted by this subsection or a petition for quiet title is filed as**  
32 **permitted by this subsection but the court finds that the organization or**  
33 **the private party that filed the petition has not rehabilitated the property**  
34 **in accordance with the rehabilitation plan approved by the court, the**  
35 **property shall immediately be sold by either the board of county**  
36 **commissioners or the governing body of a city in the manner prescribed**  
37 **for sale of property at a judicial tax foreclosure sale pursuant to K.S.A.**  
38 **79-2801 et seq., and amendments thereto.**

39 **Sec. 3. K.S.A. 2018 Supp. 12-1750, 12-1756a and 12-1756e are**  
40 **hereby repealed.**

41 **Sec. 4. This act shall take effect and be in force from and after its**  
42 **publication in the statute book.**