

SENATE BILL No. 338

By Committee on Commerce

1-20

1 AN ACT concerning cities; relating to the rehabilitation of abandoned
2 property; amending K.S.A. 2015 Supp. 12-1750 and 12-1756a and
3 repealing the existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2015 Supp. 12-1750 is hereby amended to read as
7 follows: 12-1750. As used in this act:

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

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

12 (c) "Abandoned property" means:

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

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

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

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

1 ~~quality and appearance not commensurate with the character of the~~
2 ~~properties in the neighborhood;~~ unsightly stored or parked material,
3 equipment, supplies, machinery, trucks or automobiles or parts thereof;
4 vermin infestation; ~~inadequate drainage;~~ or any violation of health, fire,
5 building or *property maintenance codes* or zoning regulations.

6 (e) "Organization" means any nonprofit corporation organized under
7 the laws of this state and which has among its purposes the improvement
8 of housing.

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

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

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

16 *The provisions of subsection (c)(2) shall expire on July 1, 2020.*

17 Sec. 2. K.S.A. 2015 Supp. 12-1756a is hereby amended to read as
18 follows: 12-1756a. (a) (1) An organization may file a petition with the
19 district court for an order for temporary possession of property if:

20 (⊕) (A) The property meets the definition of abandoned as set forth in
21 K.S.A. 12-1750, and amendments thereto;

22 (⊖) (B) the organization intends to rehabilitate the property and use
23 the property as housing *or if the petition is filed prior to July 1, 2020, for*
24 *ancillary facilities relating to housing, including, but not limited to,*
25 *infrastructure, open space, parks and parking facilities;* and

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

32 (2) *Prior to July 1, 2020, the governing body of any city may file a*
33 *petition with the district court for an order for temporary possession of*
34 *property if:*

35 (A) *The property meets the definition of abandoned in K.S.A. 12-*
36 *1750, and amendments thereto;*

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

39 (C) *such designated organization intends to rehabilitate the property*
40 *and use the property as housing or for ancillary facilities related to*
41 *housing, including, but not limited to, infrastructure, open space, parks or*
42 *parking facilities; and*

43 (D) *the governing body of the city filing the petition under this*

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

7 (b) (1) The proceeding shall be commenced by filing a verified
8 petition in the district court in the county in which the property is located.
9 The petition shall state that the conditions specified in subsection (a) exist.
10 All parties in interest of the property shall be named as defendants in the
11 petition.

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

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

15 (B) *the history of property tax payments for the preceding two years*
16 *or longer;*

17 (C) *the history of code violations for the preceding two years or*
18 *longer; and*

19 (D) *the history of attempts to notify the last known owner or owners*
20 *of any enforcement action or actions.*

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

26 (c) Any defendant may file as part of such defendant's answer, as an
27 affirmative defense, a plan for the rehabilitation of the property and
28 evidence of capacity and resources necessary to complete rehabilitation of
29 the property. The court shall grant the defendant 90 days to bring the
30 property into compliance with applicable fire, housing and building codes
31 and to pay all delinquent ad valorem property tax. For good cause shown,
32 the court may extend the ninety-day compliance period for an additional
33 90 days. If the property is brought into such compliance within the ninety-
34 day period or extension of time thereof, the petition shall be dismissed. If
35 the defendant fails to bring the property into such compliance within the
36 ninety-day period or extension of time thereof, or if the defendant's plan is
37 otherwise insufficient, the defendant's affirmative defense shall be
38 stricken.

39 (d) At the hearing on ~~the organization's~~ a petition filed in accordance
40 with, and as permitted by, subsection (a), the petitioning organization or
41 governing body of a city shall submit to the court a plan for the
42 rehabilitation of the property and present evidence that the organization
43 has adequate resources to rehabilitate and thereafter manage the property.

1 For the purpose of developing such a plan, representatives of the
2 organization *or the governing body of a city* may be permitted entry onto
3 the property by the court at such times and on such terms as the court may
4 deem appropriate.

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

8 (f) If the court approves the petition, the court shall enter an order
9 approving the rehabilitation plan and granting temporary possession of the
10 property to the *petitioning organization or governing body of a city*. The
11 organization, subject to court approval, may enter into leases or other
12 agreements in relation to the property. Whether the court approves or
13 denies the petition, the organization shall provide the governing body *of a*
14 *city* a copy of the order within 30 days of the organization's receipt or
15 knowledge of such order.

16 (g) *Not less than 365 days after receiving temporary possession of*
17 *property by an order of the court upon a petition for temporary*
18 *possession, an organization may seek quiet title to such property by*
19 *petition to the court. The petitioner for quiet title shall send notice of*
20 *intent to file the petition to the parties of interest of the property, by*
21 *certified or registered mail, mailed to their last known address at least 20*
22 *days but not more than 60 days before the date the petition is filed.*

23 Sec. 3. K.S.A. 2015 Supp. 12-1750 and 12-1756a are hereby
24 repealed.

25 Sec. 4. This act shall take effect and be in force from and after its
26 publication in the statute book.