

As Amended by Senate Committee

Session of 2016

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; ***also repealing K.S.A. 2015 Supp. 12-***
4 ***1756e.***

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

7 Section 1. K.S.A. 2015 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 has been unoccupied continuously by
16 persons legally in possession for the preceding 90 days; ~~or~~

17 (2) *any residential real estate which has been unoccupied*
18 *continuously by persons legally in possession for the preceding 365 days*
19 *and which has a blighting influence on surrounding properties, unless the*
20 *exterior of the property is being maintained and the property is either the*
21 *subject of a probate action, action to quiet title or other ownership*
22 *dispute, or the 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 the
26 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 are dangerous or injurious to the health, safety or ~~morals~~ *welfare* of the
30 occupants of such buildings or other residents of the municipality ~~or which~~
31 ~~have an adverse impact on properties in the area.~~ Such conditions may
32 include, but are not limited to, the following: Defects increasing the
33 hazards of fire, accident, or other calamities; air pollution; ~~light~~ *lack of*
34 ~~ventilation~~ *or* sanitary facilities; dilapidation; disrepair; structural defects;
35 ~~uncleanliness; dead and dying trees, limbs or other unsightly natural~~
36 ~~growth or unsightly appearances that constitute a blight to adjoining~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 *parking facilities; ~~and~~*

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

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

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

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

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

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

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

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

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

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

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

1 otherwise insufficient, the defendant's affirmative defense shall be
2 stricken. ***In no case shall the defendant's affirmative defense be stricken***
3 ***solely on the basis of delinquent property taxes.***

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

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

16 (f) If the court approves the petition, the court ~~shall~~ ***may*** enter an
17 order approving the rehabilitation plan and granting temporary possession
18 of the property to the *petitioning organization or governing body of a city*.
19 ~~The organization, subject to court approval, may enter into leases or other~~
20 ~~agreements in relation to the property.~~ Whether the court approves or
21 denies the petition, the organization shall provide the governing body of a
22 city a copy of the order within 30 days of the organization's receipt or
23 knowledge of such order.

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

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

43 Sec. 3. K.S.A. 2015 Supp. 12-1750 ~~and~~, 12-1756a ***and 12-1756e*** are

1 hereby repealed.

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