

HOUSE BILL No. 2518

By Committee on Local Government

1-20

1 AN ACT concerning the city general improvement and assessment law;
2 requiring notice by first class mail to property owners proposed to be
3 included within an improvement district; eliminating the ability of
4 property owners of one-half or more of an area proposed to be in an
5 improvement district to petition to form such district; requiring
6 disclosure in real estate contracts of any special assessments due;
7 amending K.S.A. 12-6a06 and K.S.A. 2021 Supp. 12-6a04 and 12-6a20
8 and repealing the existing sections.
9

10 *Be it enacted by the Legislature of the State of Kansas:*

11 Section 1. K.S.A. 2021 Supp. 12-6a04 is hereby amended to read as
12 follows: 12-6a04. (a) Before any contract is let or any work is ordered or
13 authorized for an improvement, the governing body shall by resolution
14 ~~direct and~~ order a public hearing on the advisability of the improvement.
15 Except as provided in subsections ~~(d)~~ (f) and ~~(e)~~ (g), notice of the hearing
16 shall be given by not less than two publications in a newspaper. The two
17 publications shall be a week apart and at least three days shall elapse
18 between the last publication and the hearing. Notice shall be given as to:

- 19 (1) Time and place of hearing;
- 20 (2) general nature of the proposed improvements;
- 21 (3) the estimated or probable cost;
- 22 (4) extent of the proposed improvement district to be assessed;
- 23 (5) the proposed method of assessment; and
- 24 (6) proposed apportionment of cost, if any, between the improvement
25 district and the city at large.

26 (b) *The notice provided in subsection (a) shall be mailed by first*
27 *class mail to all owners of record of property proposed to be included in*
28 *the improvement district.*

29 (c) The hearing may be adjourned from time to time and until the
30 governing body shall have made findings by resolution as to the
31 advisability of the improvement, the nature of the improvement, the
32 estimated cost, the boundaries of the improvement district, the method of
33 assessment and the apportionment of cost, if any, between the district and
34 the city at large, all as finally determined by the governing body, except
35 that the area of the improvement district to be assessed may be less than,
36 but shall not exceed, the area proposed to be assessed as stated in the

1 notice of hearing without giving notice and holding a new hearing on the
2 improvement. The governing body may proceed without such notice and
3 hearing, to make findings by resolution as to the advisability of
4 improvements as provided in this section whenever the proceedings are to
5 improve sanitary and storm water sewers.

6 ~~(b)~~(d) Petitions for any improvement authorized to be made under the
7 provisions of this act which set forth:

- 8 (1) The general nature of the proposed improvement;
- 9 (2) the estimated or probable cost;
- 10 (3) the extent of the proposed improvement district to be assessed;
- 11 (4) the proposed method of assessment;
- 12 (5) the proposed apportionment of cost, if any, between the
13 improvement district and the city at large; and

14 (6) a request that such improvement be made without notice and
15 hearing as required in subsection (a) ~~of this section~~, may be filed with the
16 city clerk. Names may not be withdrawn from the petitions by the signers
17 thereof after the governing body commences consideration of the petitions
18 or later than seven days after such filing, whichever occurs first, except
19 that the petitions shall contain a notice that the names of the signers may
20 not be withdrawn after such a period of time. Such petitions may be found
21 sufficient if signed by either:

22 (A) a majority of the resident owners of record of property liable for
23 assessment under the proposal; ~~(B) the resident owners of record of more~~
24 ~~than one-half of the area liable for assessment under the proposal;~~ or ~~(C)~~
25 (B) the owners of record, whether resident or not, of more than one-half of
26 the area liable to be assessed under the proposal.

27 ~~(e)~~(e) Any municipality, as such term is defined in K.S.A. 12-105a,
28 and amendments thereto, or any one or more persons or entities who or
29 which, whether one or more, are willing to pay the costs of a proposed
30 improvement may file a petition requesting the proposed improvement.
31 Such petition shall be filed with the city clerk and shall set forth:

- 32 (1) The general nature of the proposed improvement;
- 33 (2) the estimated or probable cost;
- 34 (3) a description of the property proposed to be included in the
35 improvement district to be assessed;
- 36 (4) the proposed method or methods of assessment;
- 37 (5) the proposed apportionment of costs, if any, between the
38 improvement district and the city at large;

39 (6) a statement that the signers of the petition, in the aggregate, are
40 the owners of 100% of the property or properties proposed to be included
41 in the improvement district, acknowledge that the:

42 (A) Petition is one submitted pursuant to ~~subsection (e) of K.S.A. 12-~~
43 ~~6a04(e)~~, and amendments thereto;

1 (B) proposed improvement district does not include all properties
2 which may be deemed to benefit from the proposed improvement; and

3 (C) signers' names may not be withdrawn from the petition by the
4 signers thereof after the governing body commences consideration of the
5 petition or later than seven days after such filing, whichever occurs first;
6 and

7 (7) a request that such improvement be made without notice and
8 hearing as required in subsection (a).

9 For purposes of subsection ~~(e)~~ (e), the term "entity" ~~shall mean~~ means
10 and ~~include~~ includes, but ~~shall is not be~~ is not limited to, any municipality, any
11 natural person, corporation, partnership, limited liability company, limited
12 liability partnership, trust, association or other form of business or
13 charitable organization.

14 ~~(d)~~(f) Upon filing of such petitions, the governing body may make
15 findings by resolution as to the advisability of the improvement, the nature
16 of the improvement, the estimated cost, the boundaries of the improvement
17 district, the method of assessment and apportionment of cost, if any,
18 between the improvement district and the city at large, all as determined
19 by the governing body. With respect to any petition filed pursuant to
20 subsection ~~(e)~~ (e), such findings shall include a finding that the
21 improvement district does not include all the property ~~which~~ that may be
22 deemed to be benefited by the proposed improvement and the persons who
23 signed such petition are willing to pay the costs of the proposed
24 improvement as set forth in the petition. Thereupon, the governing body
25 may proceed without notice and hearing to order the improvement as
26 provided in K.S.A. 12-6a06, and amendments thereto, except that no
27 protest shall be received as provided in such section. The area of the
28 improvement district finally determined by the governing body to be
29 assessed may not exceed the district proposed in the petition unless notice
30 is given and a hearing held as provided in subsection (a) ~~of this section~~, in
31 which instance, the proceedings shall be subject to protest as in other
32 cases.

33 ~~(e)~~(g) Whenever adjoining parallel streets have been improved, and
34 the city proposes to improve the intervening connecting street to the same
35 extent as the streets to be connected, or when two portions of any street
36 have been improved and an intervening portion not exceeding two blocks
37 has not been improved, and the city proposes to improve such intervening
38 portion to the same extent as the improved portions, in addition to the
39 notice required under subsection (a), notice of public hearing on the
40 advisability of such improvements shall be given by certified mail to the
41 owners of record of such property. Such notice shall include the
42 information required under subsection (a).

43 Sec. 2. K.S.A. 12-6a06 is hereby amended to read as follows: 12-

1 6a06. (a) The governing body may, by a majority vote of the entire
2 members-elect, at any time within six months after the final adjournment
3 of the hearing on the advisability of making the improvements, adopt a
4 resolution authorizing the improvement in accordance with the finding of
5 the governing body upon the advisability of the improvement, as provided
6 in K.S.A. 12-6a04, and amendments thereto, which shall be effective upon
7 publication once in the newspaper *and mailed notice of such resolution by*
8 *first class mail to all property owners of record*, except that the
9 improvement shall not be commenced if, within 20 days after publication
10 of the resolution *and such mailing* ordering the improvement, written
11 protests signed by both 51% or more of the resident owners of record of
12 property within the improvement district and the owners of record of more
13 than half of the total area of such district are filed with the city clerk.

14 (b) Whenever adjoining parallel streets have been improved, and the
15 proceedings are to improve the intervening connecting street to the same
16 extent as the streets to be connected, or when two portions of any street
17 have been improved and an intervening portion not exceeding two blocks
18 has not been improved, and the proceedings are to improve such
19 intervening portion to the same extent as the improved portions, the
20 improvement shall not be commenced if, within 30 days after publication
21 of the resolution ordering the improvement, written protests are signed by
22 both 75% of the resident owners of record of such property and the owners
23 of record of 75% of the total area of such property are filed with the city
24 clerk.

25 (c) When the proceedings are to improve sanitary and storm water
26 sewers, no protest shall be accepted by the city clerk and such
27 improvements may be made regardless of protests. The genuineness of the
28 signature and addresses of all signers of each protest shall be verified by
29 some signer of such protest.

30 (d) The governing body shall be *the* judge of the sufficiency of any
31 protest, and its decision shall be final and conclusive, except that names
32 may be withdrawn from any protests by the signers at any time before the
33 governing body shall convene its meeting to determine the sufficiency
34 thereof.

35 Sec. 3. K.S.A. 2021 Supp. 12-6a20 is hereby amended to read as
36 follows: 12-6a20. ~~As part of the contract or~~ (a) Prior to the execution of a
37 contract for the sale of any real property ~~which~~ *that* is subject to a special
38 assessment or fee pursuant to K.S.A. 12-6a01 et seq., and amendments
39 thereto, *and as part of the contract*, the seller of the property shall disclose
40 to the buyer that the property is subject to such special assessment or fee
41 or located in an improvement district created pursuant to K.S.A. 12-6a01
42 et seq., and amendments thereto. If the amount of such special assessment
43 or fee is unknown, the seller shall make a good faith estimation of such

1 amount. The seller of the property shall obtain a written acknowledgment
2 from the buyer that the buyer is aware of such assessment or fee or that the
3 property is located in an improvement district created pursuant to K.S.A.
4 12-6a01 et seq., and amendments thereto.

5 *(b) Failure to adhere to the requirements of subsection (a) shall*
6 *render the contract voidable by the buyer.*

7 Sec. 4. K.S.A. 12-6a06 and K.S.A. 2021 Supp. 12-6a04 and 12-6a20
8 are hereby repealed.

9 Sec. 5. This act shall take effect and be in force from and after its
10 publication in the statute book.