

Summary of Legislation to Ban Price Control Mandates on the Purchase or Sale of Private Property

RS Number of the Bill Draft

RS 2810

Summary of the Legislation

This legislation would prohibit cities and counties from adopting price control mandates on the purchase or sale of private property. Language would be added to the state's existing rent control statute (K.S.A. 12-16,120) that already prohibits cities and counties from adopting price control mandates on the lease or rental of privately-owned residential or commercial property.

Over the past few years, a group of community activists in the City of Lawrence have been pushing the city and county to adopt "inclusionary zoning" requirements on new single- and multi-family housing developments. "Inclusionary zoning" requirements basically act as a price control mandate or tax on the construction of new housing units and increase the cost of housing for families who purchase market-rate housing units.

"Inclusionary zoning" programs impose price control mandates on private property by limiting the rental amount or sales price that a property owner can charge to lease or sell a certain percentage (generally around 30 percent) of newly-constructed housing units in a new housing development. Once the housing units have been designated as price-controlled, the property owner must lease or sell the units at below market-rate units to households that have incomes below certain thresholds established by the city or county.

As an alternative, the local government may also give the developer the option of buying their way out of the price controls by making a substantial up-front cash payment to the city or an affordable housing trust fund. In effect, the developer is required to pay the local government for the right to construct homes in the subdivision, which is already allowed under the land use regulations and zoning. By any other measurement and if this were being done by a private entity, this would be extortion.

Unfortunately, KAR believes that inclusionary zoning programs lead to an increase in the cost of market-rate housing units and a reduction in the number of market-rate housing units constructed. Numerous studies and examples from other communities with inclusionary zoning programs support these conclusions.

If adopted by the Kansas Legislature, this amendment would clearly and explicitly prohibit any city or county from adopting inclusionary zoning requirements and other price controls on the lease or sale of private property. In doing so, the Kansas Legislature will protect consumer choice in the housing market and private property rights by letting the free market control the cost of housing.

Fundamentally, no city or county should have the right to mandate the amount that your constituents can charge to lease or sell their privately-owned property. This legislation will simply prohibit this particularly offensive tool and will leave cities and counties with plenty of flexibility to address the problem of affordable housing through other less constitutionally-offensive means.

Even though no cities or counties in the state of Kansas have enacted any inclusionary zoning requirements at this time, these ideas seem to spread fairly quickly across the state once they are adopted in one community. As a result, we strongly believe that now is the time for the Kansas Legislature to protect consumer choice in the housing market and private property rights by preemptively passing legislation to ban price control mandates on the purchase or sale of private property.

2016

SENATE BILL NO. ____

By Committee on Commerce

AN ACT relating to economic development; concerning price controls on the purchase or sale of private residential or commercial property; amending K.S.A. 12-16,120 and repealing the existing section.

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

Section 1. K.S.A. 12-16,120 is hereby amended to read as follows: 12-16,120. (a) No political subdivision of this state, including, but not limited to, a county, municipality or township, shall enact, maintain or enforce any ordinance or resolution that would have the effect of controlling the amount of rent charged or the purchase price agreed upon between the parties to the transaction for ~~leasing private~~ the lease or purchase of privately-owned residential or commercial property.

(b) This section shall not impair the right of any ~~local unit of government~~ political subdivision to manage and control commercial or residential property in which such ~~local unit of government~~ political subdivision has ~~a property~~ an ownership interest.

Sec. 2. K.S.A. 12-16,120 is hereby repealed.

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