

HOUSE BILL No. 2406

AN ACT concerning real estate; relating to surplus real estate owned by state agencies; relating to the review of plats; amending K.S.A. 68-404 and 75-3516 and K.S.A. 2000 Supp. 58-2005 and 75-6609 and repealing the existing sections.

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

Section 1. K.S.A. 2000 Supp. 58-2005 is hereby amended to read as follows: 58-2005. Before a subdivision plat or plat of survey may be recorded, it shall be reviewed by the county surveyor. ~~In the absence of the county surveyor, the county engineer may contract with a land surveyor who shall review such subdivision plat or plat of survey and certify the same if in compliance with the requirements of this act. If the county does not have a designated county surveyor, the county engineer shall review the plat if the county engineer also is a registered land surveyor. In the absence of both a county surveyor and a county engineer who is a registered land surveyor the plat shall be reviewed by a registered land surveyor designated by the county. All cost for plat review and approval shall be charged back to the applicant for plat approval. The county shall be responsible for the enforcement of this act. The county surveyor or county engineer shall certify that such plat meets all the requirements of this act. If any such plat is required to be submitted to any planning commission for review and approval or disapproval, such review and approval duly certified upon the face of such plat shall not constitute full compliance with the review required in this section unless reviewed by the county surveyor or county engineer.~~

Sec. 2. K.S.A. 68-404 is hereby amended to read as follows: 68-404. The secretary of transportation shall have the following powers, duties, authority and jurisdiction:

(a) General supervision over the administration of all road and bridge laws and over the construction and maintenance of all roads, bridges and culverts throughout the state, except that such supervision by the secretary shall not extend to township roads, except that any township road for which federal aid is granted shall be under the supervision of the secretary;

(b) to compile information concerning the road, bridge and culvert materials of the state and furnish such information to boards of county commissioners, township highway commissioners, county engineers and other highway officials; the secretary shall answer all inquiries of such officials concerning highway construction and maintenance and shall advise them of the reasonable prices for materials and construction work;

(c) devise and adopt standard plans and specifications for road, bridge and culvert construction and maintenance suited to the needs of the different counties of the state and furnish them to county engineers;

(d) make a biennial report for the use of the legislature and may issue bulletins and pamphlets, which shall be printed as public documents;

(e) carry on such other highway educational work, and may cooperate with the state and national organizations for the support and advancement of highway construction;

(f) may make investigations of the highway conditions in any county, assist boards of county commissioners and the attorney general in the prosecution or defense of patent suits relative to road and bridge construction when so requested, and the secretary shall report any violations of the law to the attorney general who shall take such steps as are necessary regarding such violations;

(g) to enter upon any property to make surveys, examinations, investigations, and tests, and to acquire other necessary and relevant data in contemplation of (1) establishing the location of a road, street or highway; (2) acquiring land, property, and road building materials; or (3) performing other operations incident to highway construction, reconstruction or maintenance. Prior to entering upon any such property the secretary shall first request permission of the landowner to do so. Where consent to do the things authorized in this subsection (g) is not given to the secretary by the owner or occupant of the land involved, the secretary may proceed as authorized after giving 10 days written notice to landowner or occupant

secretary to agree upon the amount of damages the landowner may file an action against the secretary in the district court of the county in which the land is situated to recover such damages;

(h) to make tests, do research, to inspect and test all materials, supplies, equipment, and machinery used for state highway purposes or highway projects involving federal funds, and to develop methods and procedures for this purpose. Tests of such materials, supplies or equipment may be made available, upon payment of actual costs therefor, to any federal agency or political subdivision of the state;

(i) to maintain and develop testing laboratories to carry out the requirements of this act;

(j) to perform such other acts and duties and exercise such authority as will give the provisions of this act and other laws relating to the secretary or department of transportation full force and effect;

(k) to adopt rules and regulations to carry out the provisions of this act and any other laws relating to the secretary or department of transportation; ~~and~~

(l) to adopt rules and regulations relating to debarment and suspension of contractors for cause; *and*

(m) *to prepare a report and make a presentation to the legislature as required by section 3 and amendments thereto.*

Sec. 3. K.S.A. 75-3516 is hereby amended to read as follows: 75-3516. (a) Each state agency shall have the legal custody of all deeds to real estate held or acquired by such state agency for and in the name of the state of Kansas, together with the abstracts of title thereto and the title insurance policies therefor, and of all other original instruments relating to real estate transactions of such state agency. ~~It shall be the duty of~~ Each state agency ~~to~~ shall keep, preserve and file all such deeds, abstracts of title, title insurance policies and other instruments, and all such instruments in the custody of the secretary of state on the effective date of this act shall be and are hereby transferred to the custody of the respective state agencies.

(b) ~~It shall be the duty of~~ Each state agency ~~to~~ shall record or cause to be recorded all deeds to real estate acquired by ~~it~~ the state agency with the register of deeds of the county where the real estate is located and any other instruments relating to ~~its~~ the agency's real estate transactions provided by law to be recorded.

(c) The director of accounts and reports shall maintain inventory records of the real property owned by the state, which records shall reflect all real property held and every real estate transaction engaged in by each state agency except the secretary of transportation. Such inventory records shall include, but not be limited to, the acreage, the location by city and county, a brief legal description and the use and purpose of each lot, tract or parcel of land held by a state agency.

(d) (1) *The secretary of transportation shall deliver to the secretary of the senate and the chief clerk of the house of representatives on or before January 30, 2002, and January 30th of each year thereafter, a written report concerning the department of transportation's system of inventory of records pertaining to all real property owned by the department of transportation and all real estate transactions engaged in by the department of transportation. Each report shall describe the current status of the inventory system and the steps taken during the past year to improve such inventory system and comply with the requirements of this section. The secretary of transportation shall notify each member of the legislature of the availability of copies of the report.*

(2) *On or before January 30, 2002, and January 30th of each year thereafter, the secretary of transportation shall make a presentation to the joint committee on state building construction on the report described in paragraph (1).*

Sec. 4. K.S.A. 2000 Supp. 75-6609 is hereby amended to read as follows: 75-6609. (a) When used in this section, "surplus real estate"

the secretary shall assist state agencies in the identification of surplus real estate. *The secretary of administration shall periodically review the status of all real estate of state agencies subject to this section to determine if any of the real estate owned by state agencies is potentially surplus real estate. If any real estate owned by a state agency is determined by the secretary of administration, in consultation with the head of the state agency, to be surplus real estate in accordance with the criteria developed under subsection (a), then the secretary of administration shall recommend to the governor that such real estate be sold under the procedures prescribed by this section.*

(2) The secretary of administration shall develop guidelines for the sale of surplus real estate. In accordance with such guidelines and upon the ~~written consent of approval of the governor~~, after consultation with the head of the state agency which owns such surplus real estate, after consultation with the joint committee on state building construction and after approval by the state finance council under subsection (c), the secretary may offer such property for sale by one of the following means: ~~(1)~~ (A) Public auction; ~~(2)~~ (B) by listing the surplus property with a licensed real estate broker or salesperson; or ~~(3)~~ (C) by sealed bid. Subject to the approval of the state finance council as required by subsection (c), the secretary of administration may sell surplus real estate and any improvements thereon on behalf of the state agency which owns such property.

(c) Prior to the sale of any surplus real estate under subsection (b), the state finance council shall approve the sale, which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711, and amendments thereto. The matter may be submitted to the state finance council for approval at any time, including periods of time during which the legislature is in session.

(d) Prior to offering any real estate for sale, such property shall be appraised pursuant to K.S.A. 75-3043a, and amendments thereto, *unless the appraisal is waived as provided in this subsection. The secretary of administration may waive the requirement for appraisal for any parcel of surplus real estate that is to be sold at public auction under this section if the secretary of administration determines that it is in the best interests of the state to waive the requirement for appraisal for such parcel of surplus real estate.* The costs of any such appraisal may be paid from the proceeds of the sale.

(e) Conveyance of title in surplus real estate offered for sale by the secretary of administration shall be executed on behalf of the state agency by the secretary of administration. The deed for the conveyance may be by warranty deed or by quitclaim deed as determined to be in the best interests of the state by the secretary of administration in consultation with the head of the state agency which owns the surplus real estate.

(f)(1) Any proceeds from the sale of surplus real estate and any improvements thereon, after deduction of the expenses of such sale and ~~the any cost of the appraisal of the surplus real estate~~, shall be deposited in the state treasury and ~~credited to the state general fund~~ as prescribed by this subsection, unless otherwise authorized by law. *On and after the effective date of this act, a portion of the proceeds from each such sale deposited in the state treasury shall be determined and designated by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c and amendments thereto and acting on this matter in conjunction with approval of such sale under subsection (c), to be credited to the surplus real estate fund or another appropriate special revenue fund of the state agency which owned the surplus real estate, as is prescribed by law or as may be determined by the state agency, except that such portion shall not exceed the amount equal to 50% of such proceeds unless otherwise required by state or federal law or by the limitations or restrictions of the state's title to the real estate being sold. In the case of proceeds from the sale of surplus real*

institution or for community developmental disabilities organizations if the real estate sold was at a state mental retardation institution, and, in any such case, shall be expended in accordance with the provisions of appropriation acts. After crediting the amount designated by the state finance council, the remainder of the proceeds from each such sale deposited in the state treasury shall be credited to the state general fund.

(2) The amount of expenses and the cost of appraisal for each sale of surplus real estate pursuant to this section shall be transferred and credited to the property contingency fund created under K.S.A. 75-3652, and amendments thereto, and may be expended for any operations of the department of administration.

(3) *Any state agency owning real estate may apply to the director of accounts and reports to establish a surplus real estate special revenue fund in the state treasury. Subject to the provisions of appropriation acts, moneys in a surplus real estate special revenue fund may be expended for the operating expenditures of the state agency.*

(g) Any sale of property by the secretary of transportation pursuant to K.S.A. 68-413, and amendments thereto, shall not be subject to the provisions of this section.

New Sec. 5. If a mental health institution or mental retardation institution is closed and all or part of the real estate of such institution is sold, the proceeds from the sale of such real estate, after deduction of the costs of the sale and any costs of appraisal of such surplus real estate, shall be deposited in the state treasury to the credit of a new or existing special revenue fund. All expenditures of such moneys in any such special revenue fund shall be in accordance with the provisions of appropriation acts and shall be used (a) for capital improvement or operating expenditures for another state institution providing either mental health services or mental retardation services, whichever were provided by the closed institution or (b) to provide either mental health services or mental retardation services, whichever was provided by the closed institution, through community organizations in communities.

Sec. 6. K.S.A. 68-404 and 75-3516 and K.S.A. 2000 Supp. 58-2005 and 75-6609 are hereby repealed.

HOUSE BILL No. 2406—page 5

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.