

SENATE BILL No. 162

By Committee on Local Government

2-6

1 AN ACT creating the Riley county unincorporated area nuisance
2 abatement act; establishing procedures for the removal and abatement
3 of nuisances; providing for the assessment of costs of such abatement.
4

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

6 Section 1. (a) The provisions of sections 1 through 6, and
7 amendments thereto, shall be known and may be cited as the Riley county
8 unincorporated area nuisance abatement act.

9 (b) Before any nuisance abatement process shall be commenced
10 under the Riley county unincorporated area nuisance abatement act, Riley
11 county first shall have obtained a conviction for a county code violation
12 resulting from such nuisance within the 12-month period prior to the
13 issuance of any order as provided in section 2, and amendments thereto.

14 (c) (1) The board of county commissioners may order the removal or
15 abatement of any nuisance from any lot or parcel of ground within the
16 unincorporated area of the county. The board may order the repair or
17 demolition of any structure or the removal or abatement of any other type
18 of nuisance.

19 (2) The order shall provide that all costs associated with the
20 abatement shall be paid by the owner of the property on which the
21 nuisance is located.

22 Sec. 2. (a) Whenever the board of county commissioners or other
23 agency designated by the board files with the Riley county clerk a
24 statement in writing describing a nuisance and declaring that such
25 nuisance is a menace and dangerous to the health of the inhabitants of the
26 county, the board of county commissioners, by resolution, may make such
27 determination and issue an order requiring the nuisance be removed or
28 abated.

29 (b) Except as provided by subsection (c), the board of county
30 commissioners shall order the owner of the property to remove and abate
31 the nuisance within not less than 10 days, to be specified in the order. The
32 board or its designated representative may grant extensions of the time
33 period indicated in the order. The order shall state that, before the
34 expiration of the waiting period or any extension, the recipient may
35 request a hearing before the board or its designated representative. The
36 order shall be served on the owner by personal service in accordance with

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1 K.S.A. 60-303, and amendments thereto.

2 (c) If the owner of the property has failed to accept delivery or
3 otherwise failed to effectuate receipt of a notice sent pursuant to this
4 section during the preceding 24-month period, the board of county
5 commissioners may provide notice of the issuance of any further orders to
6 abate or remove a nuisance from the property in the manner provided by
7 subsection (d) or as provided in this subsection. The board may provide
8 notice of the order by such methods including, but not limited to, door
9 hangers conspicuously posting notice of the order on the property, personal
10 notification, telephone communication or first-class mail. If the property is
11 unoccupied and the owner is a nonresident, notice provided by this section
12 shall be given by telephone communication or first-class mail.

13 (d) If the owner of the property fails to comply with the order for a
14 period longer than that named in the order or any extensions of such time
15 period, the board of county commissioners may proceed to order the repair
16 or demolition of any structure and have the items described in the order
17 removed and abated from the lot or parcel of ground. If the county abates
18 or removes the nuisance, the county shall give notice to the owner by
19 certified mail, return receipt requested, of the total cost of the abatement or
20 removal incurred by the county. The notice also shall state that payment of
21 the cost is due and payable within 60 days following the mailing of the
22 notice.

23 (e) If the cost of the removal or abatement is not paid within the 60-
24 day period, the cost shall be assessed and charged against the lot or parcel
25 of land on which the nuisance was located. If the cost is to be assessed, the
26 county clerk, at the time of certifying other county taxes, shall certify the
27 costs, and the county clerk shall extend the cost on the tax roll of the
28 county against the lot or parcel of land. Such cost shall be collected by the
29 county treasurer.

30 (f) In assessing the cost of removal and abatement of a nuisance, the
31 county shall subtract from the total cost of the abatement or removal
32 incurred by the county the value of the property removed or abated. If the
33 value of the property removed or abated is greater than the cost of the
34 removal or abatement incurred by the county, the county shall pay the
35 owner the difference. If the value of the property is contested, the property
36 owner may request a hearing before the board or its designated
37 representative prior to the 60 days following receipt of notice of costs due
38 and payable under subsection (d).

39 (g) All orders and notices shall be served on the owner of record or, if
40 there is more than one owner of record, then on at least one such owner.

41 (h) Any decision of the board of county commissioners or its
42 designated representative is subject to review in accordance with the
43 Kansas judicial review act.

1 Sec. 3. Riley county may remove and abate from property, other than
 2 public property or property open to the use by the public, a motor vehicle
 3 determined to be a nuisance. Disposition of such vehicles shall be in
 4 compliance with the procedures for impoundment, notice and public
 5 auction provided by K.S.A. 8-1102(a)(2), and amendments thereto.
 6 Following any sale by public auction of a vehicle determined to be a
 7 nuisance, the purchaser may file proof with the division of vehicles, and
 8 the division shall issue a certificate of title to the purchaser of the motor
 9 vehicle. If a public auction is conducted but no responsible bid is received,
 10 the county may file proof with the division of vehicles, and the division
 11 shall issue a certificate of title of the motor vehicle to the county. Any
 12 person whose motor vehicle has been disposed of pursuant to this section
 13 shall be eligible for a refund of the tax imposed pursuant to K.S.A. 79-
 14 5101 et seq., and amendments thereto. The amount of the refund shall be
 15 determined in the manner provided by K.S.A. 79-5107, and amendments
 16 thereto.

17 Sec. 4. The board of county commissioners may adopt a resolution to
 18 establish any policies, procedures, designated body or other related matters
 19 for hearings that property owners or their agents may request pursuant to
 20 the Riley county unincorporated area nuisance abatement act.

21 Sec. 5. ~~Nothing in the Riley county unincorporated area nuisance~~
 22 ~~abatement act shall apply to land, structures, machinery and equipment or~~
 23 ~~motor vehicles used for an agricultural activity. For purposes of this~~
 24 ~~section, the term "agricultural activity" means the same as defined in~~
 25 ~~K.S.A. 2-3203, and amendments thereto, except such term shall also~~
 26 ~~include real and personal property, machinery, equipment, stored grain and~~
 27 ~~agricultural input products owned or maintained by commercial grain~~
 28 ~~elevators and agribusiness facilities.~~

29 Sec. 6. The Riley county unincorporated area nuisance abatement act,
 30 sections 1 through 6, and amendments thereto, shall expire on July 1,
 31 2026.

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

The legislature declares it is the policy of this state to protect and encourage the production and processing of food and other agricultural products. As nonagricultural uses of property continue to move into agricultural and agribusiness areas, normal agricultural and agribusiness activities can find themselves subjected to public and private claims of nuisance. Therefore, it is the legislative intent of this act to protect agricultural and agribusiness activities from nuisance actions. As such,

