



**REQUEST FOR BILL INTRODUCTION**

TO: The Honorable Julia Lynn  
And Members of the Senate Committee on Commerce

FROM: Whitney Damron  
On behalf of the City of Topeka

RE: Request for Bill Introduction; Abandoned Housing (16rs2728)

DATE: January 20, 2016

Good morning Madam Chair Lynn and Members of the Senate Committee on Commerce:

I am Whitney Damron and I appear before you this morning to request introduction of a bill dealing with the subject of abandoned housing.

The Committee has seen this issue before in the form of SB 84 from the 2015 legislative session. The bill was worked in a subcommittee chaired by Senator Melcher and passed out of Committee, but never run on the floor of the Senate. Since that time, we have revisited that legislation and incorporated changes to provide more clarity to the legal process and greater protection for property rights.

We started with SB 84 as it passed this Committee in 2015 and added the following provisions:

- Extended the minimum period of abandonment from 180 days to 1 year;
- Require the complaint to the district court contain the following information:
  - o History of municipal utility service;
  - o History of property tax payments;
  - o History of nuisance/code violations; and,
  - o History of attempts to notify land known owner/interest holders.
- Minimum time for bringing a quiet title action is one year following transfer of possession.

The League of Kansas Municipalities has included abandoned housing legislation as one of their 2016 action items and other cities that have supported this legislation in the past remain involved. Furthermore, other parties involved in the drafting of this legislation in the past remain unopposed (e.g., Kansas Association of Realtors, Kansas Bankers Association, etc.). We have circulated the Revisor's draft to most, if not all of the parties who have expressed an opinion on this legislation in the past and to date we have not heard objection.

On behalf of the City of Topeka, we appreciate the opportunity to request introduction of this legislation and look forward to the hearing process at the Chair's convenience.

## SENATE BILL NO. \_\_\_\_\_

By Committee on Commerce

AN ACT concerning cities; relating to the rehabilitation of abandoned property; amending K.S.A. 2015 Supp. 12-1750 and 12-1756a and repealing the existing sections.

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

Section 1. K.S.A. 2015 Supp. 12-1750 is hereby amended to read as follows: 12-1750.

As used in this act:

(a) "Structure" means any building, wall or other structure.

(b) "Enforcing officer" means the building inspector or other officer designated by ordinance and charged with the administration of the provisions of this act.

(c) "Abandoned property" means:

(1) Any residential real estate for which taxes are delinquent for the preceding two years and which has been unoccupied continuously by persons legally in possession for the preceding 90 days; ~~or~~

(2) any residential real estate which has been unoccupied continuously by persons legally in possession for the preceding 365 days and which has a blighting influence on surrounding properties, unless the exterior of the property is being maintained and the property is either the subject of a probate action, action to quiet title or other ownership dispute, or the property is subject to a mortgage; or

(3) commercial real estate for which the taxes are delinquent for the preceding two years and which has a blighting influence on surrounding properties. "Commercial real estate" means any real estate for which the present approved use is other than one to four residential units or for agricultural purposes.

(d) "Blighting influence" means conditions in such structure which are dangerous or

injurious to the health, safety or ~~morals~~ welfare of the occupants of such buildings or other residents of the municipality or which have an adverse impact on properties in the area. Such conditions may include, but are not limited to, the following: Defects increasing the hazards of fire, accident, or other calamities; air pollution; ~~light~~ lack of ventilation or sanitary facilities; dilapidation; disrepair; structural defects; ~~uneatliness; dead and dying trees, limbs or other unsightly natural growth or unsightly appearances that constitute a blight to adjoining property, the neighborhood or the city; walls, sidings or exteriors of a quality and appearance not commensurate with the character of the properties in the neighborhood;~~ unsightly stored or parked material, equipment, supplies, machinery, trucks or automobiles or parts thereof; vermin infestation; ~~inadequate drainage;~~ or any violation of health, fire, building or property maintenance codes or zoning regulations.

(e) "Organization" means any nonprofit corporation organized under the laws of this state and which has among its purposes the improvement of housing.

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

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

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

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

Sec. 2. K.S.A. 2015 Supp. 12-1756a is hereby amended to read as follows: 12-1756a.

(a) (1) An organization may file a petition with the district court for an order for temporary

possession of property if:

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

~~(2)~~ (B) the organization intends to rehabilitate the property and use the property as housing or if the petition is filed prior to July 1, 2020, for ancillary facilities relating to housing, including, but not limited to, infrastructure, open space, parks and parking facilities; and

~~(3)~~ (C) the organization has sent notice to the enforcing officer and the parties in interest of the property, by certified or registered mail, mailed to their last known address and posted on the property at least 20 days but not more than 60 days before the date the petition is filed, of the organization's intent to file a petition for possession under K.S.A. 12-1750 through 12-1756e, and amendments thereto.

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

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

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

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

(D) the governing body of the city filing the petition under this section has sent notice to the enforcing officer and the parties in interest of the property, by certified or registered mail,

mailed to their last known address and posted on their property at least 20 days but not more than 60 days before the date the petition is filed, of the governing body's intent to file a petition for temporary possession under K.S.A. 12-1750 through 12-1756e, and amendments thereto.

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

(2) The petition shall include the following information:

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

(B) the history of property tax payments for the preceding two years or longer;

(C) the history of code violations for the preceding two years or longer; and

(D) the history of attempts to notify the last known owner or owners of any enforcement action or actions.

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

(c) Any defendant may file as part of such defendant's answer, as an affirmative defense, a plan for the rehabilitation of the property and evidence of capacity and resources necessary to complete rehabilitation of the property. The court shall grant the defendant 90 days to bring the property into compliance with applicable fire, housing and building codes and to pay

all delinquent ad valorem property tax. For good cause shown, the court may extend the ninety-day compliance period for an additional 90 days. If the property is brought into such compliance within the ninety-day period or extension of time thereof, the petition shall be dismissed. If the defendant fails to bring the property into such compliance within the ninety-day period or extension of time thereof, or if the defendant's plan is otherwise insufficient, the defendant's affirmative defense shall be stricken.

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

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

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

(g) Not less than 365 days after receiving temporary possession of property by an order of the court upon a petition for temporary possession, an organization may seek quiet title to such property by petition to the court. The petitioner for quiet title shall send notice of intent to file the petition to the parties of interest of the property, by certified or registered mail, mailed to their last known address at least 20 days but not more than 60 days before the date the petition is filed.

Sec. 3. K.S.A. 2015 Supp. 12-1750 and 12-1756a are hereby repealed.

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