

SENATE BILL No. 338

By Committee on Commerce

1-20

Proposed Amendments to SB 338
Committee on Commerce
February 16, 2016
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Office of Revisor of Statutes

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

; also repealing K.S.A. 2015 Supp. 12-1756e

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

5 Section 1. K.S.A. 2015 Supp. 12-1750 is hereby amended to read as
6 follows: 12-1750. As used in this act:

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

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

11 (c) "Abandoned property" means:

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

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

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

26 (d) "Blighting influence" means conditions in such structure which
27 are dangerous or injurious to the health, safety or ~~moral~~ *welfare* of the
28 occupants of such buildings or other residents of the municipality ~~or which~~
29 ~~have an adverse impact on properties in the area.~~ Such conditions may
30 include, but are not limited to, the following: Defects increasing the
31 hazards of fire, accident, or other calamities; air pollution; ~~light lack of~~
32 ~~ventilation~~ or sanitary facilities; dilapidation; disrepair; structural defects;
33 ~~untenableness; dead and dying trees, limbs or other unsightly natural~~
34 ~~growth or unsightly appearances that constitute a blight to adjoining~~
35 ~~property, the neighborhood or the city; walls, sidings or exteriors of a~~
36

Strike in lines 29 and 30

Strike in line 33

~~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;~~

which constitute a health or safety threat

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

Strike in line 7

(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;

(+) (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

Strike in lines 24 and 25

(+) (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

and has been in existence for a period of three years or more

Strike in line 42

1 section has sent notice to the enforcing officer and the parties in interest of
 2 the property, by certified or registered mail, mailed to their last known
 3 address and posted on their property at least 20 days but not more than 60
 4 days before the date the petition is filed, of the governing body's intent to
 5 file a petition for temporary possession under K.S.A. 12-1750 through 12-
 6 1756e, and amendments thereto.

; and
 (E) the governing body of the city filing the petition under this
 section has formally approved the filing of the petition

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

12 (2) The petition shall include the following information:

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

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

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

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

and of efforts by the city to remedy the code violations

Strike in line 18

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

; and
 (E) the history of actions taken by other governmental entities
 regarding the property including, but not limited to, tax liens or
 bankruptcy proceedings

26 (c) Any defendant may file as part of such defendant's answer, as an
 27 affirmative defense, a plan for the rehabilitation of the property and
 28 evidence of capacity and resources necessary to complete rehabilitation of
 29 the property. The court shall grant the defendant 90 days to bring the
 30 property into compliance with applicable fire, housing and building codes
 31 and to pay all delinquent ad valorem property tax. For good cause shown,
 32 the court may extend the ninety-day compliance period ~~for an additional~~
 33 ~~90 days~~. If the property is brought into such compliance within the ninety-
 34 day period or extension of time thereof, the petition shall be dismissed. If
 35 the defendant fails to bring the property into such compliance within the
 36 ninety-day period or extension of time thereof, or if the defendant's plan is
 37 otherwise insufficient, the defendant's affirmative defense shall be
 38 stricken.

Strike in lines 32 and 33

In no case shall the defendant's affirmative defense be stricken
 solely on the basis of delinquent property taxes.

39 (d) At the hearing on the ~~organization's~~ petition filed in accordance
 40 with, and as permitted by, subsection (a), the petitioning organization or
 41 governing body of a city shall submit to the court a plan for the
 42 rehabilitation of the property and present evidence that the organization
 43 has adequate resources to rehabilitate and thereafter manage the property.

1 For the purpose of developing such a plan, representatives of the
 2 organization *or the governing body of a city* may be permitted entry onto
 3 the property by the court at such times and on such terms as the court may
 4 deem appropriate.

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

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

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

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

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

may

Strike in lines 10, 11
and 12

(1)

nor more than 730 days

shall

and 12-1756e

(2) Upon a finding by the court that the property has been
 rehabilitated in accordance with the approved rehabilitation plan,
 the court shall grant the petition for quiet title. If no petition for
 quiet title is filed as permitted by this subsection or a petition for
 quiet title is filed as permitted by this subsection but the court finds
 that the organization that filed the petition has not rehabilitated the
 property in accordance with the rehabilitation plan approved by the
 court, the property shall immediately be sold by either the board of
 county commissioners or the governing body of a city in the
 manner prescribed for sale of property at a judicial tax foreclosure
 sale pursuant to K.S.A. 79-2801, et seq.

West's Kansas Statutes Annotated
Chapter 12. Cities and Municipalities
Article 17. Buildings, Structures and Grounds
Unsafe or Dangerous Structures and Abandoned Property

K.S.A. 12-1756e

12-1756e. Same; petition for judicial deed; conditions

Currentness

If an owner of property of which temporary possession has been transferred to an organization pursuant to K.S.A. 12-1756a, and amendments thereto, takes no action to regain possession of the property prior to the organization completing rehabilitation of the property, the organization may file a petition for judicial deed to the property. Upon due notice to the named defendants, an order may be entered granting a quit-claim judicial deed to the organization. A conveyance by judicial deed shall operate to extinguish all existing ownership interests in, liens on, and other interest in the property, except tax liens or mechanics' liens.

Credits

Laws 1994, ch. 242, § 9; Laws 1996, ch. 231, § 5; Laws 2003, ch. 90, § 4.

K. S. A. 12-1756e, KS ST 12-1756e

Statutes are current through laws enacted during the 2015 Regular Session of the Kansas Legislature.