

SESSION OF 2016

SUPPLEMENTAL NOTE ON SENATE BILL NO. 338

As Amended by Senate Committee on
Commerce

Brief*

SB 338, as amended, would revise provisions of law pertaining to the authority of cities and nonprofit organizations to petition the district court to possess abandoned property temporarily for rehabilitation purposes.

“Abandoned property” would include an alternative definition to the one currently in law for residential real estate, which would mean property that has been unoccupied continuously for 365 days and has a blighting influence on surrounding properties. So long as the property’s exterior would be maintained, residential real estate which would be the subject of a probate action, a mortgage, an action to quiet title, or other ownership dispute would not be defined as abandoned property. The current residential definition for abandoned property, which the bill would retain, means property with property taxes that have been delinquent for 2 years and has been unoccupied for 90 days.

“Blighting influence” would be redefined by removing a provision allowing properties to be determined to be having a blighting influence as a consequence of the properties having an adverse impact on other properties in the area. The bill would replace a reference to morals with a reference to welfare and would delete some factors that contribute to the property having a blighting influence.

A city’s governing body, following the service of process requirements in existing law, would be permitted to file a

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

petition for temporary possession if the city has identified a nonprofit organization to rehabilitate the property for housing or related residential purposes and the governing body of the city has formally approved the filing of the petition. The nonprofit organization would be required to have existed for at least three years and could take temporary possession of the property for related residential purposes such as infrastructure, parks, and parking facilities. Under current law, a nonprofit organization may take temporary possession of abandoned property for the exclusive purpose of rehabilitating housing.

The petition filed by the city would be required to contain the history of any municipal utility service for at least the preceding 365 days, the history of property tax payments for the preceding 3 years, the history of code violations for the preceding 2 years and efforts by the city to remedy the code violations, the history of attempts to notify the last known owner and any enforcement action, and the history of actions taken by other governmental entities regarding the property.

The bill also would allow a court to extend the time a defendant to such a petition has to come into compliance with all applicable codes and prohibit the striking of any affirmative defense to the petition solely on the basis of delinquent property taxes.

An additional provision of the bill would require any organization taking temporary possession of a property to seek quiet title to such property once the organization has had possession of the property for at least one year and not less than two years. Quiet title would be granted upon a finding by the court that the property has been rehabilitated. Current law, which would be stricken, allows an organization to seek a quit-claim judicial deed for the property.

The revisions contained in the bill would sunset on July 1, 2020.

Background

The bill was introduced by the Senate Committee on Commerce. At the Senate Committee hearing on the bill, proponent testimony was provided by Senator Holmes, Representative Frownfelter and representatives of the City of Topeka, the Kansas Association of Realtors, the League of Kansas Municipalities, the Unified Government of Wyandotte County, and the Wichita City Council. Testimony in opposition to the bill was provided by the Sedgwick County Board of Commissioners and a private citizen. Neutral testimony was provided by a representative of the Associate Landlords of Kansas.

The Senate Committee amended the bill to modify various procedural and timing requirements associated with the petition for temporary possession.

The fiscal note prepared by the Division of the Budget on the bill, as introduced, indicates that all cities in the state have abandoned property that could qualify for temporary possession under the bill, but the fiscal effect of the bill cannot be estimated.