

As Amended by Senate Committee

Session of 2015

SENATE BILL No. 84

By Committee on Commerce

1-27

1 AN ACT concerning cities; relating to the qualifications and rehabilitation
2 of abandoned property; amending K.S.A. 2014 Supp. 12-1750 and 12-
3 1756a and repealing the existing sections.

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

6 Section 1. K.S.A. 2014 Supp. 12-1750 is hereby amended to read as
7 follows: 12-1750. As used in this act:

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

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

12 (c) "Abandoned property" means:

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

16 *(2) any residential real estate which has been unoccupied*
17 *continuously by persons legally in possession for the preceding 180 days*
18 *and which has a blighting influence on surrounding properties, **unless the***
19 ***exterior of the property is being maintained and the property is either the***
20 ***subject of a probate action, action to quiet title or other ownership***
21 ***dispute, or the property is subject to a mortgage; or***

22 ~~(2)~~ (3) commercial real estate for which the taxes are delinquent for
23 the preceding two years and which has a blighting influence on
24 surrounding properties. "Commercial real estate" means any real estate for
25 which the present *approved* use is other than one to four residential units
26 or for agricultural purposes.

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

1 ~~neighborhood or the city; walls, sidings or exteriors of a quality and~~
2 ~~appearance not commensurate with the character of the properties in the~~
3 ~~neighborhood; unsightly stored or parked material, equipment, supplies,~~
4 ~~machinery, trucks or automobiles or parts thereof; vermin infestation;~~
5 ~~inadequate drainage; or any violation of health, fire, building or property~~
6 ~~**maintenance codes** or zoning regulations.~~

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

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

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

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

17 ***The provisions of subsection (c)(2) shall expire on July 1, 2019.***

18 Sec. 2. K.S.A. 2014 Supp. 12-1756a is hereby amended to read as
19 follows: 12-1756a. (a) (1) An organization may file a petition with the
20 district court for an order for temporary possession of property if:

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

23 (⊖) (B) the organization intends to rehabilitate the property and use
24 the property as housing ~~or for community development or economic~~
25 ~~development purposes prior to July 1, 2019, for ancillary facilities~~
26 ~~relating to housing, including, but not limited to, infrastructure, open~~
27 ~~space, parks and parking facilities; and~~

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

34 (2) ***Prior to July 1, 2019, the governing body of any city may file a***
35 ***petition with the district court for an order for temporary possession of***
36 ***property if:***

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

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

41 (C) *the organization designated under subsection (a)(2)(B) intends to*
42 *rehabilitate the property and use the property as housing or for*~~community~~
43 ~~development or economic development purposes ancillary facilities~~

1 *relating to housing, including, but not limited to, infrastructure, open*
2 *space, parks and parking facilities; and*

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

10 (b) The proceeding shall be commenced by filing a verified petition
11 in the district court in the county in which the property is located. The
12 petition shall state that the conditions specified in subsection (a) exist. All
13 parties in interest of the property shall be named as defendants in the
14 petition. Summons shall be issued and service shall be made pursuant to
15 K.S.A. 60-303, and amendments thereto. Service may be made by
16 publication if the organization *or prior to July 1, 2019, the governing*
17 *body of a city* with due diligence is unable to make service of summons
18 upon a defendant pursuant to ~~subsection (a)(3) of K.S.A. 60-307(a)(3), and~~
19 amendments thereto.

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

33 (d) At the hearing on ~~the organization's~~ a petition filed in accordance
34 with subsection (a), the organization *or prior to July 1, 2019, the*
35 *governing body of a city* shall submit to the court a plan for the
36 rehabilitation of the property and present evidence that the organization
37 has adequate resources to rehabilitate and thereafter manage the property.
38 For the purpose of developing such a plan, representatives of the
39 organization *or prior to July 1, 2019, the governing body of a city* may be
40 permitted entry onto the property by the court at such times and on such
41 terms as the court may deem appropriate.

42 (e) The court shall make its own determination as to whether the
43 property is in fact abandoned consistent with the terms of K.S.A. 12-1750

1 through 12-1756e, and amendments thereto.

2 (f) If the court approves the petition, the court shall enter an order
3 approving the rehabilitation plan and granting temporary possession of the
4 property to the organization *or prior to July 1, 2019, the governing body*
5 *of a city*. The organization, subject to court approval, may enter into leases
6 or other agreements in relation to the property. Whether the court approves
7 or denies the petition, the organization shall provide the governing body *of*
8 *a city* a copy of the order within 30 days of the organization's receipt or
9 knowledge of such order.

10 Sec. 3. K.S.A. 2014 Supp. 12-1750 and 12-1756a are hereby
11 repealed.

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