

HOUSE BILL No. 2646

By Committee on Local Government

Proposed Amendments for Senate Local Government
March 9, 2012
Prepared by Eunice Peters
(on behalf of Representative Frownfelter)
Office of Revisor of Statutes

the qualifications and rehabilitation of
and 12-1756a
sections

1 AN ACT concerning cities; relating to abandoned property and
2 qualifications thereof; amending K.S.A. 2011 Supp. 12-1750 and
3 repealing the existing section

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

6 Section 1. K.S.A. 2011 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) commercial real estate for which the taxes are delinquent for the
17 preceding three two years and which has a blighting influence on the
18 surrounding property; surrounding properties. "Commercial real
19 estate" means any real estate for which the present use is other than
20 one to four residential units or for agricultural purposes.

21 (d) "Blighting influence" means conditions in such structure
22 which are dangerous or injurious to the health, safety or morals of the
23 occupants of such buildings or other residents of the municipality or
24 which have an adverse impact on properties in the area. Such
25 conditions may include, but are not limited to, the following: Defects
26 increasing the hazards of fire, accident, or other calamities; air
27 pollution; light or sanitary facilities; dilapidation; disrepair;
28 structural defects; uncleanness; dead and dying trees, limbs or other
29 unsightly natural growth or unsightly appearances that constitute a
30 blight to adjoining property, the neighborhood or the city; walls,
31 sidings or exteriors of a quality and appearance not commensurate
32 with the character of the properties in the neighborhood; unsightly
33 stored or parked material, equipment, supplies, machinery, trucks or
34 automobiles or parts thereof; vermin infestation; inadequate

or
180

1 drainage; or any violation of health, fire, building or zoning
2 regulations.

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

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

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

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

13 ~~Sec. 2. K.S.A. 2011 Supp. 12-1750 is hereby repealed.~~

14 ~~Sec. 3. This act shall take effect and be in force from and after its~~
15 ~~publication in the statute book.~~

Insert Attachment #1

and 12-1756a are

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Sec. 2. K.S.A. 2011 Supp. 12-1756a is hereby amended to read as follows: (a) (1) An organization may file a petition with the district court for an order for temporary possession of property if:

(1) (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; 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) 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 as set forth 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) the organization designated under subsection (a)(2)(B) intends to rehabilitate the property and use the property as housing; 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 the 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 possession under K.S.A. 12-1750 through 12-1756e, and amendments thereto.

(b) 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. 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, 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 subsection (a), the organization or the 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 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 organization or the government 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.