

State of Kansas
House of Representatives



State Capitol, Room 561-W
Topeka, Kansas 66612
785-296-7648
Stan.frownfelter@house.ks.gov

5225 Crest Dr.
Kansas City, Kansas 66106
913-262-9659

Stan Frownfelter
37th District

**TESTIMONY BEFORE THE SENATE COMMITTEE ON LOCAL GOVERNMENT
REGARDING HOUSE HB 2075**

Thank you, Chairman Huebert and members of the committee for allowing me to testify on this matter of urgent importance. HB 2075 would amend KSA 12-1750 – 12-1756g related to unsafe or dangerous structures and abandoned property.

Vacant, nuisance properties have become Local Governments Later Day Plague, a kind of community gangrene that can create a chronic downdraft in property values. In areas where the problem is severe, vacant houses draw rats, squatters, drug dealers, vandals, and midnight dumpers.

For years everyone thought that this was an urban problem. However, I would point to a recent survey conducted by the city of Norton. Of 3000 homes, 10% were found to be dilapidated and needed to be demolished. This is not satisfactory when housing stock is so important to economic growth.

HB 2075 creates a process that is very simple and includes safe guards all along the way.

Step one: The codes office finds property that meets the statutory definition. They then code the property. In about two weeks they return and check on utilities. If the utilities are shut off and the property meets the definition of blight then the process will start.

Step two: A letter is sent to the owner's, lienholder of record and any occupant of said structure about the codes and appearance.

Step three: Such resolution shall be published once a week for two consecutive weeks on the same day of each week. At least 30 days shall elapse between the last publication and the date set for the hearing.

Step four: A not for profit (501C3) may file a petition with a District Court. They must show they have the ability to rehabilitate the property in a timely manner. See 12-1756b

Step five: A progress report is filed with the court concerning the rehabilitation and use of the property. See 121756BG

Step six: At the completion of the property, the organization may file a petition for Judicial deed to the property. See 12-175e

At any time during the process the owner may come back and petition the court to regain possession. A hearing would be set and if the property is returned to the property owner, the owner would be responsible for reimbursing all expenses accrued by the not-for-profit organization (see KSA 12-1756c).

These are steps with safeguards all throughout the process. We have an obligation to our neighbors, communities, and local governments to keep our streets safe for all citizens. I believe HB 2075 creates a process through which local governments both urban and rural can deal with blighted properties while also allowing for those properties to be rehabilitated providing habitable, affordable housing options for the communities. This legislation helps clean up our neighborhoods while increasing affordable housing stock to help communities attract business development.

Thank you for your careful consideration of this legislation. I would be happy to answer any questions you may have.

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12-1750. Unsafe or dangerous structures; abandoned property; commercial real estate; definitions. 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) 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 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 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 or sanitary facilities; dilapidation; disrepair; structural defects; uncleanness; 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 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.

History: L. 1961, ch. 74, § 1; L. 1994, ch. 242, § 1; L. 2003, ch. 90, § 1; L. 2010, ch. 116, § 26; L. 2012, ch. 126, § 4; July 1.

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12-1751. **Same; powers of governing body.** (a) The governing body of any city shall have the power to cause the repair or removal of, or to remove any structure located within the city, which may have become unsafe or dangerous.

(b) The governing body of any city shall have the power to cause the rehabilitation of or to rehabilitate any abandoned property located within the city.

History: L. 1961, ch. 74, § 2; L. 1994, ch. 242, § 2; July 1.

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12-1752. Same; notice and hearing. Whenever the enforcing officer files with the governing body of the city a statement in writing that any structure, describing the same and where located, is unsafe or dangerous or is abandoned property, the governing body, by resolution, shall fix a time and place at which the owner, the owner's agent, any lienholders of record and any occupant of such structure may appear and show cause why such structure should not be condemned and ordered repaired or demolished in the case of unsafe or dangerous structures or rehabilitated in the case of abandoned property. Such resolution shall be published once each week for two consecutive weeks on the same day of each week. At least 30 days shall elapse between the last publication and the date set for the hearing. A copy of the resolution shall be mailed by certified mail within three days after its first publication to each such owner, agent, lienholder and occupant, at the last known address and shall be marked "deliver to addressee only."

History: L. 1961, ch. 74, § 3; L. 1968, ch. 185, § 1; L. 1981, ch. 173, § 24; L. 1994, ch. 242, § 3; July 1.

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12-1753. Same; findings; resolution; contents; notice. On the date fixed for hearing or any adjournment thereof, the governing body shall hear all evidence submitted by the owner, the owner's agent, lienholders of record and occupants having an interest in such structure as well as evidence submitted by the enforcing officer filing the statement and shall make findings by resolution. If the governing body of the city finds that such structure is unsafe or dangerous, such resolution shall direct the structure to be repaired or removed and the premises made safe and secure. If the governing body of the city finds that such structure is abandoned property, the governing body may authorize the rehabilitation of such property as provided by K.S.A. 12-1756a. Such resolution shall be published once in the official city paper and a copy mailed to the owners, agents, lienholders of record and occupants in the same manner provided for the notice of hearing. The resolution shall fix a reasonable time within which the repair or removal of such structure shall be commenced and a statement that if the owner of such structure fails to commence the repair or removal of such structure within the time stated or fails to diligently prosecute the same until the work is completed, the governing body will cause the structure to be repaired or razed and removed in the case of unsafe or dangerous structures or rehabilitated in the case of abandoned property.

History: L. 1961, ch. 74, § 4; L. 1994, ch. 242, § 4; July 1.

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12-1754. **Same; duties of owner after removal of structure.** The owner of any structure, upon removing the same, shall fill any basement or other excavation located upon the premises and take any other action necessary to leave such premises in a safe condition.

History: L. 1961, ch. 74, § 5; June 30.

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12-1755. **Same; salvage, sale; assessment and collection of costs; procedure.** (a) If the owner of any structure has failed to commence the repair or removal of such structure within the time stated in the resolution or has failed to diligently prosecute the same thereafter, the city may proceed to raze and remove such structure, make the premises safe and secure, or let the same to contract. The city shall keep an account of the cost of such work and may sell the salvage from such structure and apply the proceeds or any necessary portion thereof to pay the cost of removing such structure and making the premises safe and secure. All moneys in excess of that necessary to pay such costs and the cost of publications of notice and any postage for mailing of notice, after the payment of all costs, shall be paid to the owner of the premises upon which the structure was located.

(b) The city shall give notice to the owner of such structure by restricted mail of the total cost incurred by the city in removing such structure and making the premises safe and secure and the cost of providing notice. Such notice also shall state that payment of such cost is due and payable within 30 days following receipt of such notice. If the cost is not paid within the thirty-day period and if there is no salvageable material or if moneys received from the sale of salvage or from the proceeds of any insurance policy in which the city has created a lien pursuant to K.S.A. 40-3901 et seq., and amendments thereto, are insufficient to pay the cost of such work, the balance shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as a special assessment against the lot or parcel of land on which the structure was located and the city clerk at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and any applicable interest has been paid in full.

Whenever any structure is removed from any premises under the provisions of this act, the city clerk shall certify to the county appraiser that such structure, describing the same, has been removed.

(c) If there is no salvageable material, or if the moneys received from the sale of salvage or from the proceeds of any insurance policy in which the city has created a lien pursuant to K.S.A. 40-3901 et seq., and amendments thereto, are insufficient to pay the costs of the work and the cost of providing notice, such costs or any portion thereof in excess of that received from the sale of salvage or any insurance proceeds may be financed, until the costs are paid, out of the general fund or by the issuance of no-fund warrants. Whenever no-fund warrants are issued under the authority of this act the governing body of such city shall make a tax levy at the first tax levying period for the purpose of paying such warrants and the interest thereon. All such tax levies shall be in addition to all other levies authorized or limited by law and shall not be subject to the aggregate tax levy prescribed in article 19 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto. Such warrants shall be issued, registered, redeemed and bear interest in the manner and in the form prescribed by K.S.A. 79-2940, and amendments thereto, except they shall not bear the notation required by that section and may be issued without the approval of the state court of tax appeals. All moneys received from special assessments levied under the provisions of this section or from an action under K.S.A. 12-1,115, and amendments thereto, when and if paid, shall be placed in the general fund of the city.

History: L. 1961, ch. 74, § 6; L. 1968, ch. 185, §2; L. 1985, ch. 73, § 3; L. 1986, ch. 74, § 3; L. 2008, ch. 109, § 33; July 1.

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12-1756. Same; immediate hazard; action to protect public; notice not required; cost. When in the opinion of the enforcing officer, any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, such officer may erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay and such action may, under such circumstances, be taken without prior notice to or hearing of the owners, agents, lienholders and occupants. The cost of any such action shall be assessed against the property and paid in the manner provided by K.S.A. 12-1755.

History: L. 1961, ch. 74, § 7; June 30.

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12-1756a. Rehabilitation of abandoned property; petition for possession; service of process; affirmative defense; rehabilitation plan; lease of property. (a) An organization may file a petition with the district court for an order for temporary possession of property if:

- (1) The property meets the definition of abandoned as set forth in K.S.A. 12-1750, and amendments thereto;
- (2) the organization intends to rehabilitate the property and use the property as housing; and
- (3) 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.

(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 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 petition, the organization 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. 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 a copy of the order within 30 days of the organization's receipt or knowledge of such order.

History: L. 1994, ch. 242, § 5; L. 1996, ch. 231, § 1; L. 2003, ch. 90, § 2; L. 2010, ch. 116, § 27; July 1.

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12-1756b. Same; annual report, contents. An organization which has possession of property pursuant to K.S.A. 12-1756a, and amendments thereto, shall file an annual report with the court concerning the rehabilitation and use of the property. The court shall require reports and status dates to be filed as it deems appropriate under the circumstances but no less frequently than once a year. The report shall include statements of all expenditures made by the organization including, but not limited to, payments for the rehabilitation, operation and maintenance of and repairs to the property, and for real estate taxes, and payments to mortgagees and lienholders during the preceding year and shall include statements of all income and receipts from the property for the preceding year.

History: L. 1994, ch. 242, § 6; L. 1996, ch. 231, § 2; L. 2003, ch. 90, § 3; July 1.

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12-1756c. Same; procedure to obtain possession by owner; hearing. The owner of property of which temporary possession has been transferred to an organization pursuant to K.S.A. 12-1756a, and amendments thereto, shall be entitled to regain possession of the property by petitioning to the district court of the county in which such property is located for restoration of possession and, upon notice to the organization for a hearing on such petition. At the hearing, the court shall determine proper compensation to the organization for its expenditures, including management fees, based on the organization's reports to the court. The court, in determining the proper compensation to the organization, may consider income or receipts received from the property by the organization. After the owner pays the compensation to the organization as determined by the court, the owner shall resume possession of the property, subject to all existing rental agreements whether written or verbal, entered into by the organization.

History: L. 1994, ch. 242, § 7; L. 1996, ch. 231, § 3; July 1.

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12-1756d. Same; organization's right to redeem. If property of which temporary possession has been transferred to an organization pursuant to K.S.A. 12-1756a, and amendments thereto, is sold for unpaid taxes, an organization with temporary possession may redeem the property in the same manner as the owner and amounts paid to redeem the property shall be included as expenditures in the organization's report to the court.

History: L. 1994, ch. 242, § 8; L. 1996, ch. 231, § 4; July 1.

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

History: L. 1994, ch. 242, § 9; L. 1996, ch. 231, § 5; L. 2003, ch. 90, § 4; July 1.

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12-1756f. Organizations interested in rehabilitating abandoned property. The enforcing officer shall maintain a list of all organizations who are interested in rehabilitating abandoned property and who have requested to be included on such list. The organizations on such list shall be given written notice of abandoned property which may be available for rehabilitation by any such organization. The enforcing officer may require that requests to be included on such list be submitted annually to the enforcing officer.

History: L. 1996, ch. 231, § 6; July 1.

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12-1756g. Occupation of rehabilitated house by purchaser. Any person who purchases a house from an organization which has rehabilitated such house pursuant to K.S.A. 12-1750 et seq., and amendments thereto, shall agree to occupy such house for at least two years following the date of taking title to such property.

History: L. 2003, ch. 90, § 5; L. 2010, ch. 116, § 28; July 1.

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