

As Amended by House Committee

Session of 2013

HOUSE BILL No. 2075

By Committee on Local Government

1-23

1 AN ACT concerning cities; relating to the qualifications and rehabilitation  
2 of abandoned property; amending K.S.A. 2012 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. 2012 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; or*

19 ~~(2)(3)~~ commercial real estate for which the taxes are delinquent for  
20 the preceding two years and which has a blighting influence on  
21 surrounding properties. "Commercial real estate" means any real estate for  
22 which the present *approved* use is other than one to four residential units  
23 or for agricultural purposes.

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

1 machinery, trucks or automobiles or parts thereof; vermin infestation;  
2 ~~inadequate drainage~~; or any violation of **a property maintenance code or**  
3 **of any** health, fire, building or zoning regulations.

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

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

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

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

14 Sec. 2. K.S.A. 2012 Supp. 12-1756a is hereby amended to read as  
15 follows: 12-1756a. (a) *(1)* An organization may file a petition with the  
16 district court for an order for temporary possession of property if:

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

19 ~~(2)(B)~~ *(2)(B)* the organization intends to rehabilitate the property and use the  
20 property as housing *or for community development or economic*  
21 *development purposes*; and

22 ~~(3)(C)~~ *(3)(C)* the organization has sent notice to the enforcing officer and the  
23 parties in interest of the property, by certified or registered mail, mailed to  
24 their last known address and posted on the property at least 20 days but not  
25 more than 60 days before the date the petition is filed, of the organization's  
26 intent to file a petition for possession under K.S.A. 12-1750 through 12-  
27 1756e, and amendments thereto.

28 *(2) The governing body of any city may file a petition with the district*  
29 *court for an order for temporary possession of property if:*

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

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

34 *(C) the organization designated under subsection (a)(2)(B) intends to*  
35 *rehabilitate the property and use the property as housing or for community*  
36 *development or economic development purposes; and*

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

1 (b) The proceeding shall be commenced by filing a verified petition  
2 in the district court in the county in which the property is located. The  
3 petition shall state that the conditions specified in subsection (a) exist. All  
4 parties in interest of the property shall be named as defendants in the  
5 petition. Summons shall be issued and service shall be made pursuant to  
6 K.S.A. 60-303, and amendments thereto. Service may be made by  
7 publication if the organization *or the governing body of a city* with due  
8 diligence is unable to make service of summons upon a defendant pursuant  
9 to subsection (a)(3) of K.S.A. 60-307, and amendments thereto.

10 (c) Any defendant may file as part of such defendant's answer, as an  
11 affirmative defense, a plan for the rehabilitation of the property and  
12 evidence of capacity and resources necessary to complete rehabilitation of  
13 the property. The court shall grant the defendant 90 days to bring the  
14 property into compliance with applicable fire, housing and building codes  
15 and to pay all delinquent ad valorem property tax. For good cause shown,  
16 the court may extend the ninety-day compliance period for an additional  
17 90 days. If the property is brought into such compliance within the ninety-  
18 day period or extension of time thereof, the petition shall be dismissed. If  
19 the defendant fails to bring the property into such compliance within the  
20 ninety-day period or extension of time thereof, or if the defendant's plan is  
21 otherwise insufficient, the defendant's affirmative defense shall be  
22 stricken.

23 (d) At the hearing on ~~the organization's~~ a petition filed in accordance  
24 with subsection (a), the organization *or the governing body of a city* shall  
25 submit to the court a plan for the rehabilitation of the property and present  
26 evidence that the organization has adequate resources to rehabilitate and  
27 thereafter manage the property. For the purpose of developing such a plan,  
28 representatives of the organization *or the governing body of a city* may be  
29 permitted entry onto the property by the court at such times and on such  
30 terms as the court may deem appropriate.

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

34 (f) If the court approves the petition, the court shall enter an order  
35 approving the rehabilitation plan and granting temporary possession of the  
36 property to the organization *or the governing body of a city*. The  
37 organization, subject to court approval, may enter into leases or other  
38 agreements in relation to the property. Whether the court approves or  
39 denies the petition, the organization shall provide the governing body *of a*  
40 *city* a copy of the order within 30 days of the organization's receipt or  
41 knowledge of such order.

42 Sec. 3. K.S.A. 2012 Supp. 12-1750 and 12-1756a are hereby  
43 repealed.

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