

HOUSE BILL No. 2246

By Committee on Taxation

2-4

9 AN ACT concerning cities; relating to nuisance abatement and powers
10 of certain neighborhood associations.

11

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

13 Section 1. (a) This act shall be known as the neighborhood organi-
14 zation nuisance abatement act.

15 (b) As used in this act:

16 (1) "Local code violation" means a violation under the provisions of
17 a local code of general ordinances of any city which regulates fire pre-
18 vention, animal control, noise control, property maintenance, building
19 construction, health and sanitation and nuisances;

20 (2) "neighborhood organization" means any organization performing
21 community services or economic development activities in the city with
22 geographical definable boundaries and:

23 (A) Holding a ruling from the internal revenue service of the United
24 States department of the treasury that the organization is exempt from
25 income taxation pursuant to the provisions of the internal revenue code;
26 or

27 (B) incorporated in the state of Kansas as a not-for-profit corporation;
28 or

29 (C) designated as a community development corporation by the
30 United States government pursuant to the provisions of title VII of the
31 economic opportunity act of 1964; or

32 (D) is recognized as a neighborhood organization by ordinance of the
33 city.

34 (3) "Nuisance" means within the boundaries of the city represented
35 by the neighborhood organization, an act or condition knowingly created,
36 performed or maintained on private property that constitutes a local code
37 violation and that:

38 (A) Significantly affects the other residents of the neighborhood;

39 (B) diminishes the value of the neighboring property; and

40 (C) is injurious to public health, safety or welfare of neighboring res-
41 idents or obstructs the reasonable use of other property in the
42 neighborhood.

43 Sec. 2. (a) A neighborhood organization representing persons ag-

- 1 grieved by a local code violation may seek injunctive and other equitable
2 relief in municipal court for abatement of a nuisance upon showing:
- 3 (1) The notice requirements of this section have been satisfied; and
 - 4 (2) the nuisance exists and has not been abated.
- 5 (b) An action under this section shall not be brought:
- 6 (1) Until 60 days after the neighborhood organization sends notice of
7 the violation and of the neighborhood organization's intent to bring an
8 action under this section, by certified mail, return receipt requested, to
9 the appropriate municipal code enforcement agency;
 - 10 (2) if the appropriate municipal code enforcement agency has filed
11 an action for equitable relief from the nuisance;
 - 12 (3) until 60 days after the neighborhood organization sends notice by
13 first class prepaid postage certified mail to the tenant, if any, and the
14 property owner of record that a nuisance exists and that legal action may
15 be taken if the nuisance is not abated. If the notice sent by certified mail
16 is returned, unclaimed or refused, designated by the post office to be
17 undeliverable, or signed for by a person other than the addressee, then
18 notice may be given to the tenant, if any, and the property owner of record
19 by sending a copy of the notice by regular mail and posting a copy of
20 notice on the property where the nuisance allegedly is occurring. The
21 notice shall specify:
 - 22 (A) The nature of the alleged nuisance;
 - 23 (B) the date and time of day the nuisance was first discovered;
 - 24 (C) the location on the property where the nuisance is allegedly oc-
25 ccurring; and
 - 26 (D) the relief sought in the action.
- 27 Sec. 3. In filing a suit under this section, an officer of the neighbor-
28 hood organization shall certify to the court:
- 29 (a) That the neighborhood organization has taken the required steps
30 to satisfy the notice requirements under this act; and
 - 31 (b) that each condition precedent to the filing of the action under
32 this act has been met.
- 33 Sec. 4. An action shall not be brought against an owner of residential
34 rental property unless, prior to giving notice under this act, a notice of
35 violation relating to the nuisance first has been issued by an appropriate
36 municipal code enforcement agency and remains outstanding after a pe-
37 riod of 45 days.
- 38 Sec. 5. (a) If a violation notice issued by an appropriate municipal
39 code enforcement agency is an essential element of the municipal en-
40 forcement action, a copy of the notice signed by an official of the appro-
41 priate municipal code enforcement agency shall be prima facie evidence
42 of the facts contained in the notice.
- 43 (b) A notice of abatement issued by the appropriate municipal code

1 enforcement agency in regard to the violation notice shall be prima facie
2 evidence that the plaintiff is not entitled to the relief requested.

3 (c) A proceeding under this section shall:

4 (1) Be heard at the earliest practicable date; and

5 (2) be expedited in every way.

6 Sec. 6. (a) This act shall not be construed as to abrogate any equitable
7 or legal right or remedy otherwise available under the law to abate a
8 nuisance.

9 (b) This act shall not be construed as to grant standing for an action:

10 (1) Challenging any zoning application or approval;

11 (2) abating an alleged nuisance which consists of an interior physical
12 defect of a property; or

13 (3) involving any violation of municipal alcoholic beverages law.

14 Sec. 7. This act shall take effect and be in force from and after its
15 publication in the statute book.