

SESSION OF 2019

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2314

As Amended by House Committee of the Whole

Brief*

HB 2314, as amended, would revise provisions of law pertaining to the authority of cities and nonprofit organizations to petition the district court to possess abandoned property temporarily for rehabilitation purposes.

“Abandoned property” would include an alternative definition to the one in current law for residential real estate, which would mean property that has been unoccupied continuously for 365 days and has a blighting influence on surrounding properties. So long as the property’s exterior would be maintained, residential real estate that is the subject of a probate action, a mortgage, an action to quiet title, or other ownership dispute would not be defined as abandoned property. The current residential definition for abandoned property, which the bill would retain, means property with property taxes that have been delinquent for 2 years and has been unoccupied for 90 days.

“Blighting influence” would be redefined by removing a provision allowing properties to be determined to be having a blighting influence as a consequence of the properties having an adverse impact on other properties in the area. The bill would replace a reference to morals with a reference to welfare and would delete some factors that contribute to the property having a blighting influence.

A city’s governing body, following the service of process requirements in current law, would be permitted to file a petition for sale and for temporary possession if the city has

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

identified a nonprofit organization to rehabilitate the property for housing or related residential purposes and the governing body of the city has formally approved the filing of the petition. The nonprofit organization would be required to have existed for at least three years and could take temporary possession of the property for related residential purposes such as infrastructure, parks, and parking facilities. Under current law, a nonprofit organization may take temporary possession of abandoned property for the exclusive purpose of rehabilitating housing.

The petition filed by the city would be required to contain the history of any municipal utility service for at least the preceding 365 days, the history of property tax payments for the preceding 3 years, the history of code violations for the preceding 2 years and efforts by the city to remedy the code violations, the history of attempts to notify the last known owner and any enforcement action, and the history of actions taken by other governmental entities regarding the property.

The bill also would allow a court to extend the time a defendant to such a petition has to come into compliance with all applicable codes and prohibit the striking of any affirmative defense to the petition solely on the basis of delinquent property taxes.

If the property is determined to be abandoned, the court would be required to order the property to be sold at a judicial tax foreclosure sale for temporary possession by either the nonprofit organization or a private party. If a private party wants to acquire the property, that person or entity would be required to submit a petition and a plan to the court, demonstrating the intent and ability to rehabilitate the property. Proceeds from the sale would be allocated as follows:

- Court costs, fees, and sale costs;
- Property taxes owed; and

- Remaining proceeds would be set aside for the property owner.

An additional provision of the bill would require any organization or private party taking temporary possession of a property to seek quiet title to such property once the organization has had possession of the property for at least one year and not less than two years. Quiet title would be granted upon a finding by the court that the property has been rehabilitated. Current law, which would be deleted, allows an organization to seek a quit-claim judicial deed for the property.

The revisions contained in the bill would sunset on July 1, 2023.

Background

The bill was introduced by the House Committee on Commerce, Labor and Economic Development (House Committee) at the request of Representative Frownfelter.

During the House Committee hearing, Representative Frownfelter and representatives of the League of Kansas Municipalities (LKM), the City of Topeka, and the Unified Government of Wyandotte County spoke in favor of the bill, stating the legislation would improve the health, safety, and welfare of communities. Representatives of the cities of Belle Plaine, Chapman, Cheney, Concordia, Dodge City, El Dorado, Fort Scott, Garnett, Great Bend, Manhattan, Overland Park, Pittsburg, and Prairie Village, along with the Community Housing Association of Dodge City, provided written-only testimony in support of the bill.

A member of the public provided testimony in opposition to the bill, expressing concern the legislation would result in local units of government taking real property without compensation. A realtor provided written-only testimony in opposition to the bill.

Senator Haley and a representative of the Associated Landlords of Kansas provided neutral testimony, suggesting ways to balance property rights with the expectations of a community. A representative of the Kansas Association of Realtors provided written-only neutral testimony.

On February 24, the House Committee recommended the bill be passed. On February 27, the bill was rereferred to the Committee on Appropriations. On March 6, the bill was rereferred to the House Committee, and on March 14, the House Committee amended the bill to:

- Require the sale of the abandoned property for temporary possession and rehabilitation during that time, specifying the allocation of moneys from the sale; and
- Allow a private party to possess temporarily and later acquire the abandoned property, provided certain procedures and conditions are met.

The House Committee of the Whole amended the bill to clarify:

- The reference to the petitioning process that would be used for temporary possession of abandoned property; and
- The means by which a court may grant quiet title to an organization or private party.

The fiscal note prepared by the Division of the Budget on the bill, as introduced, indicates LKM cannot estimate the fiscal effect to cities. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2020 Governor's Budget Report*.