

SESSION OF 2023

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2083**

As Amended by Senate Committee of the Whole

**Brief\***

HB 2083, as amended, would establish the Kansas Vacant Property Act and prohibit city and county governments from taking certain actions against a property based solely on the property being vacant.

The bill would define a “municipality” as being any city, county, township, or other political or taxing subdivision.

The bill would also define a “vacant property” as any residential or commercial property that meets the following requirements:

- Property consisting of a single unit that is unoccupied; or
- Property consisting of multiple units in which one or more units are not occupied.

The bill states a property shall be considered vacant under the Act, regardless of the reason for said vacancy.

The bill would prohibit a municipality from adopting or enforcing any ordinance, resolution, regulation, or from taking an administrative action that would require the owner, operator, manager, or any legal or equitable mortgagee or lienholder with an interest in the property to do the following:

- Pay any tax, fee, or other charge imposed on the basis that the property is vacant;

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\*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>

- A municipality that requires registration of a vacant property would be authorized to charge a fine of up to \$100 for a failure to register a building as a vacant property within 60 days after receiving written notice from the municipality that such building must be registered; and
- A municipality that requires registration of a vacant property also would be authorized to charge a fine of up to \$300 as a penalty for failure to register a building as a vacant property within 30 days after receipt of written notice of failure to register sent via certified mail;
- Pay any tax, fee, or other charge for a legal mortgagee, equitable mortgagee, or lienholder to enforce a mortgage or lien by judicial means; or
- Impose responsibility of property ownership including, but not limited to, repairs, maintenance, or security on a legal or equitable mortgagee or lienholder.

The bill would make null and void any provision of any ordinance, resolution, or regulation requiring the payment of a tax, fee, or other charge prohibited by the Act that was adopted prior to July 1, 2023.

The bill would state that nothing in the Act would prohibit or otherwise limit a municipality from adopting or enforcing any ordinance, resolution, or regulation that uniformly applies to both vacant and non-vacant property within the municipality.

## **Background**

The bill was introduced by the House Committee on Local Government at the request of a representative of the Kansas Association of Realtors.

### ***House Committee on Local Government***

In the House Committee hearing on February 2, 2023, **proponent** testimony was provided by representatives of the Associated Landlords of Kansas, Kansas Association of Realtors, and Kansas Bankers Association. The proponents generally stated that imposing fees on vacant properties infringes on the rights of a property owner to make decisions for their property. The proponents also stated that banks and other financial institutions are being considered as the owners of vacant properties and being assessed fees by cities before the financial institution can legally care for or sell the property.

Written-only proponent testimony was provided by a representative of the Kansas Manufactured Housing Association.

**Opponent** testimony was provided by representatives of the City of Topeka, Kansas Association of Counties, and League of Kansas Municipalities. The opponents generally stated the bill would infringe on local control. The opponents also generally stated it can be important for public safety to maintain lists of vacant properties so first responders can act accordingly in the case of an emergency.

Written-only opponent testimony was provided by representatives of the cities of Concordia, Edwardsville, Halstead, and Overland Park; Unified Government of Wyandotte County and Kansas City, Kansas; and Winfield Area Chamber of Commerce, and by two private citizens.

The House Committee amended the bill to:

- Remove language detailing causes for vacancy that would be disregarded for the purpose of determining vacancy;
- Remove the prohibition on a municipality maintaining a registry or record of vacant properties within the city or county;
- Clarify the terms “mortgagee” and “lienholder” as being any legal or equitable mortgagee or lienholder with an interest in any vacant property;
- Prohibit a municipality from imposing any responsibility of property ownership on a legal or equitable mortgagee or lienholder; and
- Clarify that only the provisions of an ordinance, resolution, or regulation that requires payment of any tax, fee, or other charge would become null or void upon enactment of the bill.

***Senate Committee on Local Government***

During the Senate Hearing on March 21, 2023, **proponent** testimony was offered by representatives of the Associated Landlords of Kansas, the Kansas Association of Realtors, and the Kansas Bankers Association. The proponents generally stated that the bill would protect the rights of private property owners and that the current language of the bill was a compromise among the conferees who had been before the House Committee. Written-only proponent testimony was provided by a representative of the Kansas Manufactured Housing Association.

**Opponent** testimony was provided by representatives of Emporia Main Street, the Kansas Association of Counties, the League of Kansas Municipalities, and the Smith Center Economic Development Department. The opponents generally stated the bill would override local control and

remove one of the few tools municipalities and counties have to address vacant properties and support well being of residents. Written-only opponent testimony was provided by representatives of the cities of Eureka and Halstead, MuniReg, and the Unified Government of Wyandotte County/Kansas City and by a private citizen.

Neutral written-only testimony was provided by a representative of the City of Topeka.

### ***Senate Committee of the Whole***

On March 29, 2023, the Senate Committee of the Whole amended the bill to allow municipalities to charge fines for failure to register vacant properties, if such registration is required.

The Committee of the Whole referred the bill back to the Senate Committee on Local Government.

### **Fiscal Information**

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, both the Kansas Association of Counties and the League of Kansas Municipalities state that enactment of the bill would reduce county and city revenues used primarily to fund programs responsible for maintaining vacant properties.

Local government; Kansas Vacant Property Act; vacant property; city; county; fees; registry