

STATE OF KANSAS

OFFICE
ROOM 134-E
STATE CAPITOL BUILDING
TOPEKA, KANSAS 66612
(785) 296-7376; (785) 296-0103/FAX
David.Haley@senate.ks.gov



DISTRICT
CIVIC CENTER STATION
POST OFFICE BOX 171110
KANSAS CITY, KANSAS 66117
(913) 321-3210; (913) 321-3110/FAX
SenHaley@aol.com

SENATE CHAMBER

DAVID B. HALEY
SENATOR
DISTRICT 4
WYANDOTTE COUNTY

BEFORE THE SENATE
.....ETHICS, ELECTIONS & LOCAL GOVERNMENT COMMITTEE.....
IN NEUTRALITY TO SENATE BILL 31 (2017)
AN ACT CONCERNING CITIES;
QUALIFICATIONS & REHABILITATION OF ABANDONED PROPERTIES
Thursday, January 26, 2017 9:30 AM

Madame Chair; Members of the Committee:

Thank you for taking time to hear this bill and to consider the Testimony on all sides of it.
I register today as a NEUTRAL Conferee to SB 31; On Rehab of "Abandoned" Properties.

I'll be brief here.

Over the years when I have patiently responded to the neighborhood groups who have asked me about my previous opposition to other incarnations of what is now SB 31 (previously SB 338 ...which passed both Chambers of the Kansas Legislature in 2016 but the Governor wisely vetoed ...and, also previously HB 2075; HB 2646; etc., etc. in outlying years), I have referred to this novel concept to real property conversion as, simply, "eminent domain light."

In his Veto Message on SB 338 just last year in 2016, Governor Brownback opined "Government should protect property rights and ensure that the less advantaged are not denied the liberty to which every citizen is entitled." (Attached.)

I, Senator David Haley (WY), in my ONLY Constitutional Protest in, then, twenty-three years of Legislative service in opposing SB 338 said "The property rights of legal property owners should not be infringed upon by this Legislature. Marginal or fragile property owners...will be set upon by keen-eyed, out of county based developers sheltered by an industrious 'not-for-profit' which uses the city and district court to harass and ultimately take the land, all in the name of 'civic pride' or 'community betterment.' Theft."

And a bi-partisan House Explanation of Vote opposing SB 338 observed "...allowing our local governments to expeditiously confiscate, seize or destroy law abiding citizens' private property without compensation, adequate notice, and a legal property title."

Incredible how so wide an array of political philosophies can reach the simultaneous conclusion.

COMMITTEE ASSIGNMENTS

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ETHICS, ELECTIONS & LOCAL GOVERNMENT

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HEALTH POLICY OVERSIGHT
STATE TRIBAL RELATIONS CHILDREN'S ISSUES
CORRECTIONS & JUVENILE JUSTICE OVERSIGHT

No one likes blight. And no responsible entity should want to protect any irresponsible, tax delinquent person or entity from depreciating a community by not maintaining responsibilities as a property owner.

But, finding no attached entity or person to stand for these charges of dereliction is not a condition for "abandonment" in this bill. Were truly no person or entity to be found to represent the ownership interest, I would heartily support this bill's intent; give the property to the city to give to a not-for-profit to renovate, resale and make substantial profit from. Further, the loosely defined "blighting influence" as the trigger for selective enforcement by a municipality in favor of a CHDO over a potentially struggling property also owner invokes my neutrality. Finally, in my book, an extended vacancy of a structure is not ever, in and of itself, tantamount to "abandonment" nor is failure, or inability, to have paid property taxes for two(2) or more years.

On one hand, I remain today a staunch proponent of taking long time vacant; tax delinquent; truly dilapidated houses away from negligent property owners who exhibit little or no concern about the appearance or the value of the surrounding neighborhood.

If the property is tax delinquent, it can be listed and sold in a delinquent tax or "sheriff's" sale, as provided under current state law, to the highest bidder; including a CHDO, if it is so inclined.

If the property is truly blight, the municipality can issue citation(s) and compel the offending property owner to appear in court to defend and abate OR surrender title to the property to the city; or the CHDO, if they want, without further penalty.

My full support for the bill marries the THREE (3) elements of tax-delinquency with chronic vacancy with obvious neglect and disrepair to trigger a government's taking for a conversion.

Members of the Committee, I yield the balance of my time to the other NEUTRAL conferee here today and will be pleased to stand for any question(s) you might have at the appropriate time.



SB 338 – Veto Message from the Governor

The right to private property serves as a central pillar of the American constitutional tradition. It has long been considered essential to our basic understanding of civil and political rights. Property rights serve as a foundation to our most basic personal liberties. One of government's primary purposes is to protect the property rights of individuals.

The purpose of **Senate Bill 338**, to help create safer communities, is laudable. However, in this noble attempt, the statute as written takes a step too far. The broad definition of blighted or abandoned property would grant a nearly unrestrained power to municipalities to craft zoning laws and codes that could unjustly deprive citizens of their property rights. The process of granting private organizations the ability to petition the courts for temporary and then permanent ownership of the property of another is rife with potential problems.

Throughout the country, we have seen serious abuse where government has broadened the scope of eminent domain, especially when private development is involved. The use of eminent domain for private economic development should be limited in use, not expanded. **Senate Bill 338** opens the door for serious abuse in Kansas. Governmental authority to take property from one private citizen and give to another private citizen should be limited, but this bill would have the effect of expanding such authority without adequate safeguards.

Kansans from across the political spectrum contacted me to discuss their concerns that this bill disparately impact low income and minority neighborhoods. The potential for abuse of this new statutory process cannot be ignored. Government should protect property rights and ensure that the less advantaged are not denied the liberty to which every citizen is entitled.

There is a need to address the ability of municipalities and local communities to effectively maintain neighborhoods for public safety. However, **Senate Bill 338** does much more. Though I am vetoing this bill, I would welcome legislation that empowers local communities to respond to blight and abandoned property that does not open the door to abuse of the fundamental rights of free people.

Dated: April 11, 2016

Signed: SAM BROWNBACK, *Governor*