

Sedgwick County Nuisance Abatement; SB 52

SB 52 establishes the Sedgwick County Urban Area Nuisance Abatement Act (Act).

The bill authorizes the Board of County Commissioners (Board) to order the removal or abatement of any nuisance from any property in the unincorporated area of Sedgwick County (County). All costs associated with the abatement are the responsibility of the property owner. Before the abatement process can begin, the bill requires the County to first obtain a conviction for a county code violation regarding the nuisance no more than 12 months before the issuance of the abatement order.

The bill states the Act shall not apply to any land, structures, machinery, equipment, or vehicles used for agricultural activity as defined in continuing law to include the growing or raising of horticultural and agricultural crops, hay, poultry, and livestock and the handling, storage, and transportation of agricultural commodities. The Act also excludes all real and personal property, machinery, equipment, stored grain, and agricultural input products that are owned or maintained by commercial grain elevators and agribusiness facilities.

Abatement Process

To begin the abatement process, the bill requires the Board, or an agency designated by the Board, to file a statement with the Sedgwick County Clerk describing the nuisance and declaring it a menace and health risk to county residents. The bill authorizes the Board to issue an order requiring the nuisance to be removed or abated. The bill requires the order to provide a minimum of ten days (as specified in the order) for the owner to remove and abate the nuisance; the Board is empowered to grant extensions to the time period in question. The property owner is also provided the right to request a hearing before the Board if the request is made prior to the end of the waiting period or any extension. The bill subjects any decision made by the Board or its designated representative on this matter to review under the Kansas Judicial Review Act (KSA 77-601 *et seq.*).

The abatement order is to be sent to the owner of record by personal service. [*Note:* Methods of service of process are provided in KSA 2020 Supp. 60-303.] The bill, if the owner fails to accept delivery or effectuate receipt during a preceding 24-month period, authorizes the Board to use alternative notification methods such as, but not limited to, door hangers, telephone communications, or first-class mail. Telephone communication or first-class mail is required if the property is unoccupied and the owner is a nonresident.

If the owner of the property fails to abate the nuisance before the time limit stated in the abatement order, the Board is authorized to order the repair or demolition of any structure, have items described in the order removed, and provide notice to the owner by certified mail, with return receipt requested, that the abatement has occurred and include the total cost of the abatement incurred by the County. The bill requires the notice to state payment for the abatement to the County would be due and payable no later than 60 days after the mailing of the notice. If payment is not made within the 60-day period, the County is authorized to assess the cost of the abatement to the lot or parcel of land on which the nuisance was located. The bill requires the county clerk to certify the costs and extend the cost on the tax roll against the lot or parcel of land.

The bill requires all orders and notices to be served on the owner of record for the property. In the event of more than one owner of record, the County is required to notify at least one of the owners of record.

County Abatement Costs

The bill states, when assessing the cost of removal or abatement of a nuisance, the County shall subtract the value of the property that was removed or abated from the total cost of the abatement or removal. If the value of the property removed or abated is greater than the total cost of the removal or abatement, the bill requires the County to pay the property owner the difference.

A property owner who contests the value of the property is allowed to request a hearing before the Board or its designated representative prior to the deadline for payment of removal or abatement costs to the County.

Motor Vehicles

The bill states the County is authorized to remove a motor vehicle determined to be a nuisance, except when the vehicle is on public property or property open to the public. The County is authorized to impound and auction vehicles removed by this process following provisions of continuing law applicable to removing a vehicle from public property or property open to the public. The bill states an individual who purchases a vehicle in this manner may file proof of purchase with the Division of Vehicles (Division) in order to receive the title to the vehicle purchased. If no responsible bid is received during the auction, the County is authorized to file proof with the Division and be issued the title in the County's name.

Any individual whose vehicle is sold *via* this process is eligible for a refund of motor vehicle tax imposed, and the amount of the refund will be determined as provided in continuing law.

Policies and Procedures

The Board may adopt a resolution to establish policies, procedures, a designated body, or other matters for hearings that property owners or their agents may request pursuant to the Act.

Sunset

The Act expires on July 1, 2024.