

SENATE BILL No. 112

AN ACT concerning land surveyors; amending K.S.A. 19-1407, 19-1411, 19-1412, 19-1413, 19-1416, 19-1417, 19-1420, 19-1422, 19-1423, 19-1426, 19-1430, 24-106, 24-802, 25-101, 42-358, 58-2001, 58-2002, 58-2003, 58-2004, 58-2005, 58-2011, 58-3102, 68-104, 68-131, 68-1407 and 79-409 and K.S.A. 2010 Supp. 68-1402 and repealing the existing sections; also repealing K.S.A. 19-1403, 19-1421, 19-1432 and 68-108.

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

New Section 1. (a) The board of county commissioners of each county may appoint a land surveyor, whose official title shall be county surveyor. The county surveyor may appoint deputy county surveyors, and each deputy may perform the duties devolved upon the county surveyor by law. The county surveyor shall be a land surveyor, licensed pursuant to article 70 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto. The county surveyor may be a full-time or part-time county employee, or a contract employee, as determined appropriate by the board of county commissioners. A land surveyor may be a county surveyor in more than one county.

(b) For purposes of this section and article 14 of chapter 19 of the Kansas Statutes Annotated, and amendments thereto, the term "land surveyor" shall have the same meaning ascribed thereto in K.S.A. 74-7003, and amendments thereto.

New Sec. 2. (a) Whenever a land surveyor performs a survey that results in a new legal description or creates a new tract of land, a survey plat shall be recorded with the register of deeds in the county where the survey was located within 90 days after completion of the survey. The survey plat shall be certified with the seal and signature of a land surveyor. The land surveyor who signed and sealed the survey plat shall be responsible for recording the survey.

(b) Except for subdivision plats, the board of county commissioners may, by resolution, designate an alternative county office for the filing of survey plats for archival purposes. If a county office other than the register of deeds is designated for the filing of survey plats, then that office shall maintain an index of all surveys by section, township and range, and surveys of platted lots shall be indexed by subdivision. The cost of filing the survey plat at the alternate county office shall not exceed the cost of recording the same or similar documents at the register of deeds.

Sec. 3. K.S.A. 19-1407 is hereby amended to read as follows: 19-1407. The county surveyor shall keep records to show the following:

~~(1) All surveys;~~

~~(2) (a) A plat of each boundary survey showing all course lengths and angles of deflection, to a scale of not less than four (4) inches to the mile, and showing a directional arrow, a location legend and such other data as will properly identify the plat made by the county surveyor, which shall be in accordance with Kansas law in effect at the time such survey is made;~~

~~(3) (b) a full set of field notes, setting forth the chainage distance and direction of all courses, and recording the stations of all permanent fences and boundaries and of such existing landmarks as will allow a complete study of the property, from such record;~~

~~(4) (c) a description of all corners found or set with a tie-in to at least three (3) permanent markers or witnesses also described, together with their direction and distance from a stone or corner, reference reports prepared by the county surveyor, such surveyor's deputies and other land surveyors pursuant to K.S.A. 58-2011, and amendments thereto.~~

Sec. 4. K.S.A. 19-1411 is hereby amended to read as follows: 19-1411. In establishing the center corner of all sections closing on a parallel or base line, the ~~county land surveyor or his deputy~~ shall commence at the quarter-section corner on the south boundary of the section, and run a line north, parallel to the east boundary of ~~said~~ such section; and at ~~forty~~ 40 chains from the quarter-section corner on the south boundary, ~~or place of commencement, said county~~ such land surveyor ~~or his deputy~~ shall permanently establish the center corner of the section; and at the point where the said north line produced intersects the parallel or base line, which must be just ~~forty~~ 40 chains west of northeast corner of the section, ~~said county~~ such land surveyor ~~or his deputy~~ must permanently establish the quarter-section corner on the north boundary of the section.

Sec. 5. K.S.A. 19-1412 is hereby amended to read as follows: 19-1412. In re-establishing missing corners, where no bearing or witness tree or trees can be found, the ~~county land surveyor or his deputy~~ shall establish ~~said~~

*the* missing corners in accordance with the government surveys. Where government surveys cannot be accurately followed, missing corners shall be established by proportionate measurement or existing landmarks supplemented with other location data, monuments, ~~chainage,~~ *distances* and the ~~stone of monuments for~~ the corners shall be replaced according to the best calculations of the ~~county~~ *land* surveyor, taking into account all the data, and, if necessary, replacing the proportionate measurement requirement.

Sec. 6. K.S.A. 19-1413 is hereby amended to read as follows: 19-1413. (a) If any county surveyor or ~~his~~ *such surveyor's* deputy shall be molested, or prevented from doing or performing any of ~~his or their~~ *such surveyor's* official duties, by means of threats or improper interference of any person or persons, such surveyor shall call on the sheriff of the county, who shall accompany ~~him~~ *such surveyor* and remove all force;

(b) ~~and the person or persons thus~~ Threatening or improperly interfering with any county surveyor or ~~his~~ *such surveyor's* deputy, ~~while performing his or their~~ *during the performance of such surveyor's* official duties, shall be a class A nonperson misdemeanor, and on conviction thereof be fined in a sum not exceeding one hundred dollars, and moreover shall be liable for all damages to any person by the hindrance of the *county* surveyor or ~~his~~ *such surveyor's* deputy, and also for all the expenses that may accrue in consequence of the attendance of the sheriff.

Sec. 7. K.S.A. 19-1416 is hereby amended to read as follows: 19-1416. ~~That~~ It shall not be necessary for the county surveyor to take an oath or affirmation before commencing ~~his~~ *such surveyor's* duties to survey roads, except as is provided by law, when ~~he takes his~~ *such surveyor takes* oath of office, ~~as is provided in Laws of 1913, chapter 157, section 1.~~

Sec. 8. K.S.A. 19-1417 is hereby amended to read as follows: 19-1417. It shall be the duty of each county surveyor to employ disinterested persons to act as ~~chainmen; and he may appoint markers, flagmen and rodmen; and~~ *such surveyor's assistants*. The expenses of the ~~chainmen, markers, flagmen and rodmen~~ *such assistants* shall be paid in advance, if required by the county surveyor or ~~his~~ *deputy*, by the party on whose application the survey may be made, and the money so advanced shall be accounted for by the *county* surveyor and the amount expended to be taxed on the bill of cost. Any ~~chainman, marker or flagman~~ appointed as aforesaid *appointed assistant* shall receive, for each day that ~~he~~ *such assistant* may be actually be employed in performing the work, the prevailing wages for like services within the area, as determined by the board of county commissioners.

Sec. 9. K.S.A. 19-1420 is hereby amended to read as follows: 19-1420. Upon the establishment of any road, the county surveyor shall enter the plat and field notes thereof upon the official road record of the county. ~~He~~ *The county surveyor* shall, when ordered by the board of county commissioners, make out a complete description of all or any part of the real estate of ~~his~~ *such* county, to be made out and entered in proper rolls furnished by the county clerk for such purpose. ~~The county surveyor shall, when ordered by the county commissioners, make complete surveys, plans, specifications and estimates for all bridges, culverts, roads, ditches, or other public works to be constructed under the authority of the board of county commissioners, and shall report the same with his recommendations thereon, and when so ordered he shall superintend the construction of such work, and make reports on the progress of the same to the board of county commissioners as often as they may require. Provided, That the board of county commissioners may employ a civil engineer or architect to act alone or in conjunction with the county surveyor in making plans, specifications and estimates for any bridge, culvert, road, ditch or other public work to be constructed by the county, and in superintending the construction of the same.~~

Sec. 10. K.S.A. 19-1422 is hereby amended to read as follows: 19-1422. In the resurvey of land surveyed under the authority of the United States, the ~~county~~ *land* surveyor shall observe the following rules ~~to wit:~~

*First*, Section and quarter-section corners, and all other corners established by the government survey, must stand as the true corners.

*Second*, They must be re-established at the identical spot where the original corner was located by the government surveyor, when this can be determined.

*Third*, When this cannot be done, then said corners must be re-established

in accordance with the provisions of ~~section K.S.A. 19-1412 of the General Statutes of 1949, as amended, and amendments thereto.~~

Sec. 11. K.S.A. 19-1423 is hereby amended to read as follows: 19-1423. (a) Whenever the owner or owners of one or more tracts of land shall desire to permanently establish the corners and boundaries thereof, such owner or owners shall notify the county surveyor to make a survey thereof and establish such corners and boundaries, and shall furnish to the county surveyor the name or names and address or addresses of all persons residing in the county and elsewhere, so far as known, who may be affected by such survey. The county surveyor shall cause a notice in writing to be served on each person who may be affected by the survey, or their agent or agents residing in such county, stating the time when the *county* surveyor will begin the survey, and the lines or corners to be established, which notice shall be delivered to the person or left at their usual place of residence, at least six days prior to the day set for the survey.

(b) *Notice may be served* upon the landowners who may be affected by the survey, and who do not reside in the county, ~~notice may be served~~ by publication in a newspaper published in the county, if there is one, once in each week for three consecutive weeks, the last publication to be made at least three days prior to the day set for beginning the survey, and in case no newspaper is published in the county, then in some newspaper published in the state which has general circulation in the county, or such notice may be served by mailing, by registered mail, postage prepaid, with return receipt requested, addressed to such person at their usual place of residence with proper post-office address. In all cases where all the landowners interested shall consent in writing, the county surveyor may, at such time as may be agreed upon, proceed to establish such corners and boundaries without serving notice as required by this section. Proof of service of notice as herein provided shall be made and entered of record in the office of the county surveyor, *and retained for a period of one year.*

(c) All costs incurred by the county surveyor in conducting such survey and proceedings for establishing the corners and boundaries of any tract or tracts of land requested by the owner of such property shall be paid by the party or parties requesting such survey. All costs incurred by the county surveyor in conducting surveys and proceedings for establishing the corners and boundaries of tracts of land which are authorized and directed by the board of county commissioners shall be paid from funds of the county available for such purpose.

Sec. 12. K.S.A. 19-1426 is hereby amended to read as follows: 19-1426. (a) Upon the filing of the report of each survey, any person interested in ~~the same~~ *such report* can at any time within 30 days thereafter appeal to the district court, by filing with the county surveyor a notice of such person's intention to appeal and by giving a bond, to be approved by the judge of the district court, conditioned for the payment of costs of the appeal if the report of the county surveyor is affirmed by the court. Upon the filing of such notice and bond the county surveyor shall certify the appeal to the clerk of the district court, and shall file with the clerk a certified copy of the report appealed from, including the affidavits, if any, filed therewith. The court shall hear and determine the appeal, and enter an order of judgment approving or rejecting the report, or modifying or amending the report, or may refer the report back to the *county* surveyor to correct the survey and report in conformity with the decree of the court, or may, for good cause shown, set aside the report and appoint one or more *land* surveyors, who shall proceed at the time mentioned in the order of the court, to survey and determine the corners and boundaries of the land in question, and shall report the same to the court for further action.

(b) The corners and boundaries established in any survey made in pursuance of an agreement, or in any survey where no appeal is taken from the *county* surveyor's report, and such corners and boundaries as are established by the decree of the court, shall be held and considered as permanently established, and shall not thereafter be changed. When any report of a survey made in pursuance of an agreement, or of legal notice, or by the order of court, becomes final, it shall be the duty of the county surveyor to record the report in the records of permanent surveys. The county surveyor shall also make a certified record of such survey on paper of the same size as the record of permanent surveys, suitable for binding, and shall file the record in the office of register of deeds.

Sec. 13. K.S.A. 19-1430 is hereby amended to read as follows: 19-1430. When ~~he shall find or be notified that, by reason of the wearing, washing or blowing of the land below its usual surface, a cornerstone or monument is in danger~~ a United States public land survey corner or section center corner monument located in a street or road:

(a) ~~Is at risk of being displaced or destroyed, it shall be the duty of the township trustee on township roads, the county surveyor on county roads, and of persons, firms or corporations on their property, to at once fill in around such cornerstone or monument in such manner as to make it secure; and further, when a cornerstone or monument,~~

(b) ~~projects above the usual grade of a roadbed enough to be in danger of being displaced by travel, by road graders, or by other means, or if by reason of intended cuts or fills the cornerstone or monument is likely to be displaced or destroyed or covered to a depth exceeding two (2) feet or covered with;~~

(c) ~~is at risk of coverage by concrete, asphalt or other permanent type surfacing, and such cornerstone or monument has not at least two (2) duly recorded witness monuments, the county surveyor shall be given notice, served in person or by certified mail, of such fact, together with the location of such cornerstone or monument.; or~~

(d) ~~is at risk that fill will cover the corner monument more than two feet, the agency responsible for maintaining the road shall preserve the corner monument by employing a land surveyor to comply with the provisions of K.S.A. 58-2011, and amendments thereto.~~

~~The cost of the preservation or reestablishment of the corner monument shall be paid by the agency responsible for maintaining the road, or if such corner monument is located on private property, by the landowner.~~

Sec. 14. K.S.A. 24-106 is hereby amended to read as follows: 24-106. ~~Owners of land~~ Landowners may drain ~~the same~~ their land in the general course of natural drainage, by constructing open or covered drains, into any natural depression, draw, or ravine, on ~~his~~ such landowner's own land, whereby the water will be carried by ~~said~~ such depression, draw, or ravine into some natural watercourse, or into any drain upon a public highway, for the purpose of securing proper drainage to such land; ~~and he.~~ Such landowner shall not be liable in damages therefor to any person or persons or corporation: ~~Provided, That owners of land,~~ provided that in constructing an outlet to a drain upon any public road, the landowner shall leave the road in as good a condition as it was before the drain was constructed. The question as to such condition ~~to~~ shall be determined by the board of county commissioners and the county engineer ~~in counties having a county engineer, and in other counties the county surveyor.~~

Sec. 15. K.S.A. 24-802 is hereby amended to read as follows: 24-802. Whenever a petition is presented to the board of county commissioners of the county in which a levee is proposed to be constructed, signed by the owners of a majority of the acreage on which such levee or any portion of it is proposed to be constructed, or which will be benefited by the construction of such levee, specifying substantially the place of beginning, the general course and termination of such levee, accompanied by a bond, with surety approved by the clerk of such board, payable to the state of Kansas, conditioned that the petitioners will pay all costs and expenses accruing in the proceedings in case said levee be not finally located and allowed, the board of county commissioners shall with such assistance as may be required of the county ~~surveyor or~~ engineer, determine whether or not to institute proceedings and exercise the power of eminent domain in accordance with K.S.A. 26-501 to 26-516, inclusive, and amendments thereto.

Sec. 16. K.S.A. 25-101 is hereby amended to read as follows: 25-101. (a) On the Tuesday succeeding the first Monday in November of each even-numbered year, there shall be held a general election to elect officers as follows:

(1) At each alternate election, prior to the year in which the term of office of the president and vice-president of the United States will expire, there shall be elected the electors of president and vice-president of the United States to which the state may be entitled at the time of such election;

(2) at each such election, when the term of a United States senator for this state shall expire during the next year, there shall be elected a United States senator;

(3) at each such election there shall be elected the representatives in congress to which the state may be entitled at the time of such election;

(4) at each alternate election, prior to the year in which their regular terms of office will expire, there shall be elected a governor, lieutenant governor, secretary of state, attorney general, state treasurer and state commissioner of insurance;

(5) at each such election there shall be elected such members of the state board of education as provided by law;

(6) at each such election, when, in a judicial district in which judges of the district court are elected, the term of any district judge expires during the next year, or a vacancy in a district judgeship has been filled by appointment more than 30 days prior to the election, there shall be elected a district judge of such judicial district;

(7) at each such election, when, in a judicial district in which judges of the district court are elected, the term of any district magistrate judge expires during the next year, or a vacancy in a district magistrate judgeship has been filled by appointment more than 30 days prior to the election, there shall be elected a district magistrate judge of such judicial district;

(8) at each alternate election, prior to the year in which the regular term of office of state senators shall expire, there shall be elected a state senator in each state senatorial district;

(9) at each election there shall be elected a representative from each state representative district;

(10) at each alternate election there shall be elected, in each county, a county clerk, county treasurer, register of deeds, county or district attorney, sheriff and such other officers as provided by law; *and*

~~at each alternate election, in counties that may by law be entitled to elect such officer, there shall be elected a county surveyor;~~

(11) at each election, when the term of county commissioner in any district in any county shall expire during the next year, there shall be elected from such district a county commissioner.

(b) This section shall apply to the filling of vacancies only so far as is consistent with the provisions of law relating thereto.

Sec. 17. K.S.A. 42-358 is hereby amended to read as follows: 42-358.

(a) Whenever the ~~owners of land~~ *landowners* within any proposed irrigation district, who shall be residents of the county in which ~~said such~~ proposed irrigation district is located, shall desire the erection of such district as provided for in K.S.A. 42-357, *and amendments thereto*, ~~they such~~ *landowners* shall cause to be presented to the board of county commissioners of such county a petition signed by not less than ~~three-fourths~~ <sup>3/4</sup> of the ~~owners of land~~ *landowners* within ~~said such~~ proposed district who are residents of such county, which petition shall define the boundaries of ~~said such~~ irrigation district, and shall ask for the erection of such district. Such petition shall be accompanied by an outlined map or plat showing the tracts of territory to be erected into such district, together with the numbers of sections and parts of the sections of land to compose such irrigation district; and ~~said such~~ map or plat shall contain a drawing and profile of the proposed main ditch to the source of supply, and of all other ditches and laterals proposed to be constructed or purchased for the purpose of irrigating said described lands in ~~said such~~ proposed district.

(b) ~~And said~~ *Such* petition shall be accompanied by an estimate, to be made by the county engineer of such county, ~~if such engineer be then in the employ of such county, and if not, by the county surveyor~~, of the probable cost of ~~the building of said~~ *the* main ditch, ditches and laterals and all other works necessary to be built in order to furnish a sufficient supply of water to irrigate the lands in ~~said such~~ proposed district; or the costs of reconstruction and repair of such ditches, laterals and other works in case it is proposed to purchase the same; and at any time after the filing of such petition the county commissioners may, on the written application of any ~~ten~~ *10* of such petitioners, order such county engineer ~~or surveyor~~ to make the estimates herein provided for, and ~~he~~ *such county engineer* shall receive ~~for his work and labor~~ such reasonable compensation as such board of commissioners shall allow *for such work performed*.

Sec. 18. K.S.A. 58-2001 is hereby amended to read as follows: 58-2001. (a) All *exterior* corners in the boundary of a subdivision of land shall be monumented prior to recording of the plat submitted for recording after the effective date of this section. ~~This monument~~ *The monuments* shall

be a metallic bar or ~~tube set rigidly in a concrete base.~~ pipe which is in accordance with Kansas law at the time the survey is made.

(b) As used in article 20 of chapter 58 of the Kansas Statutes Annotated, and amendments thereto:

(1) “Condominium plat” means a type of subdivision plat for condominiums as required by K.S.A. 58-3115, and amendments thereto.

(2) “Subdivision plat” means a type of survey plat that creates lots, tracts, units or other parcels of land, that is acknowledged by the landowner and which requires acceptance by a city or county governing body.

(3) “Survey plat” means a drawing prepared by a land surveyor that graphically depicts the details of a survey and the location of the monuments.

(4) “Townhouse plat” means a type of subdivision plat for townhouses as required by K.S.A. 58-3707, and amendments thereto.

Sec. 19. K.S.A. 58-2002 is hereby amended to read as follows: 58-2002. Where any ~~section corner, quarter section corner~~ United States public land survey corner or section center is involved in the control establishing the location of a subdivision boundary or other property boundary, ~~said point~~ such corners shall be clearly monumented and labeled before it is being used in the ~~subdivision~~ control of the survey.

Sec. 20. K.S.A. 58-2003 is hereby amended to read as follows: 58-2003. When any ~~section corner, quarter section corner~~ United States public land survey corner or section center is ~~set or reset~~ monumented or remonumented by a land surveyor, and when any such corner is located by a land surveyor in the course of carrying out a public survey, there shall be recorded, in the manner provided by K.S.A. 58-2011, and amendments thereto, reference measurements from permanent, visible objects to the location of the ~~point~~ corner as ~~set, reset~~ monumented, remonumented or located. These reference objects shall be described clearly. ~~In lieu of reference measurements from visible objects, such reference measurements may be made from triangulation stations maintained by the national ocean service/national geodetic survey or by utilizing the state plane coordinate system prescribed by K.S.A. 58-20a01 et seq., and amendments thereto.~~

Sec. 21. K.S.A. 58-2004 is hereby amended to read as follows: 58-2004. The following information shall be submitted to the county surveyor with all survey plats ~~for subdivisions of land; that are required to be reviewed by the county surveyor:~~

(a) ~~Exterior boundary~~ Survey plat showing: (1) Theory of location used for the exterior boundary; (2) locations of the monuments, ~~(2);~~ and (3) bearings and distances between the monuments, ~~(3) closure calculations.~~

(b) ~~All horizontal lot calculations and street calculations.~~ Closure calculations of the exterior boundary and interior lots and parcels, or equivalent electronic data files acceptable to the county surveyor.

(c) Corner reference reports prepared by the land surveyor as required by K.S.A. 58-2003 and 58-2011, and amendments thereto, less than one year prior to the date such reports are submitted to the county surveyor.

Sec. 22. K.S.A. 58-2005 is hereby amended to read as follows: 58-2005. (a) Before a subdivision plat, or survey plat ~~of survey may~~ required to be recorded pursuant to section 2, and amendments thereto, can be recorded, it shall be reviewed by the county surveyor or a land surveyor designated by the county. ~~If the county does not have a designated county surveyor, the county engineer shall review the plat if the county engineer also is a registered land surveyor. In the absence of both a county surveyor and a county engineer who is a registered land surveyor the plat shall be reviewed by a registered land surveyor designated by the county. All cost for plat review and approval shall be charged back to the applicant for plat approval. The county shall be responsible for the enforcement of this act. The county surveyor or county engineer other land surveyor designated by the county shall certify that such plat meets all the requirements of this act. If any such plat is required to be submitted to any planning commission for review and approval or disapproval, such review and approval duly certified upon the face of such plat shall not constitute full compliance with the review required in this section unless reviewed by the county surveyor or county engineer.~~

(b) (1) The survey plat shall be reviewed for: (A) Closure of the exterior boundary; (B) monumentation of the exterior boundary and United

*States public land survey corners; (C) legal description; and (D) compliance with K.S.A. 58-2011, and amendments thereto.*

*(2) A townhouse plat shall be reviewed in accordance with paragraph (1), and shall also be reviewed for compliance with K.S.A. 58-3707, and amendments thereto.*

*(3) A condominium plat shall be reviewed in accordance with paragraph (1), and shall also be reviewed for compliance with K.S.A. 58-3115, and amendments thereto.*

*(4) The board of county commissioners may, by resolution, adopt additional review requirements, including, but not limited to, review of proposed new tracts for compliance with zoning ordinances and regulations.*

*(c) Costs for the plat review and approval may be charged to the applicant for plat approval. All costs charged pursuant to this section shall be based on actual costs of the review and approval as approved by the board of county commissioners. There shall be no charge to the applicant for the completion of a deficiency correction verification. If new deficiencies are identified on an amended plat, and were not present on the initial plat, then the cost of the additional review may be charged to the applicant, provided, such charge does not exceed the charge for the initial review.*

*(d) If a survey plat is required to be reviewed, the register of deeds for such county may:*

*(1) Accept a survey plat for recordation only after the county surveyor, or such surveyor's designee, signs the face of the plat; or*

*(2) accept the survey plat, filing fee and review fee prior to review, then deliver the plat along with the review fee to the county surveyor or such surveyor's designee. The county surveyor, or such surveyor's designee, shall return the plat to the register of deeds, or to the submitting land surveyor, if necessary, upon completion of the review.*

*(e) The county surveyor, or such surveyor's designee, shall complete any initial plat review and deliver such plat to the submitting land surveyor or the register of deeds, as the case may be, no later than eight business days after such plat was submitted for review. During the initial review of a plat, the county surveyor, or such surveyor's designee, shall identify deficiencies related to those items described in subsection (b), if applicable. The county surveyor, or such surveyor's designee, shall complete any amended plat review and deliver such amended plat and the deficiency correction verification to the submitting land surveyor or the register of deeds, as the case may be, no later than three business days after such amended plat was submitted for review.*

*(f) Except for subdivision plats, townhouse plats and condominium plats, the board of county commissioners may, by resolution, waive the requirement for review of survey plats prior to recording with the register of deeds.*

Sec. 23. K.S.A. 58-2011 is hereby amended to read as follows: 58-2011. (a) Whenever a survey originates from a United States public land survey corner or any related accessory, the land surveyor shall file a ~~copy of the report of the completed survey and references to the reference report~~ *reference report* for each corner or accessory with the secretary of the state historical society and with the county surveyor for the county or counties in which the survey corner exists. If there is no county surveyor of such county, such *reference* report shall be filed with the county engineer. If there is no county engineer, such report shall be filed in the office of the county road department. Reports filed with the secretary of the state historical society may be filed and retrieved using electronic technologies if authorized by the secretary. Such report shall be filed within 30 days of the date the references are made. At the time of filing such report with the secretary of the state historical society, the land surveyor shall pay a filing fee in an amount fixed by rules and regulations of the secretary of the state historical society. Fees charged for filing and retrieval of such reports may be billed and paid periodically.

(b) Any person engaged in an activity in which a United States public land survey corner or any related accessory is likely to be altered, removed, damaged or destroyed, shall have a person qualified to practice land surveying establish such reference points as necessary for the restoration, reestablishment or replacement of the corner or accessory. The land surveyor shall file a reference report with the secretary of the state historical society and with the county surveyor for the county or counties in which the survey corner exists. Such report shall be filed within 30 days of the date the

references are made. At the time of filing such report with the secretary of the state historical society, the land surveyor shall pay a filing fee in an amount fixed by rules and regulations of the secretary of the state historical society.

(c) Upon completion of the activity likely to alter, remove, damage or destroy the public land survey corner or related accessory, the land surveyor shall review the survey corner and its accessories. If the survey corner or any accessory has been altered, removed, damaged or destroyed, the land surveyor shall replace the corner or accessory with a survey monument and file a restoration report with the secretary of the state historical society and the county surveyor in the county or counties in which it existed. If the survey corner and accessories are not damaged during the activity, a restoration report so stating shall be filed with the secretary of the state historical society and county surveyor's office. Such report shall be filed within 30 days after the activity is completed. At the time of filing such report with the office of the secretary of the state historical society the land surveyor shall pay a filing fee in an amount fixed by rules and regulations of the secretary of the state historical society.

(d) Failure to comply with the filing requirements of this section shall be grounds for the suspension or revocation of the land surveyor's license.

(e) The secretary of the state historical society may produce, reproduce and sell maps, plats, reports, studies and records relating to land surveys. The secretary of the state historical society shall charge a fee in an amount to be fixed by rules and regulations of the secretary for the furnishing of information retrieved from records filed pursuant to this section and for reproductions or copies of maps, plats, reports, studies and records filed in such office.

(f) All moneys collected by the secretary of the state historical society under the provisions of this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Twenty percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the land survey fee fund, which is hereby created. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants approved by the secretary of the state historical society or a person designated by the secretary of the state historical society and shall be used only for the purpose of paying the costs incurred in administering the provisions of this act. After the effective date of this act, any reference to the secretary of state in regard to appropriations to the land survey fee fund shall be deemed to refer to the secretary of the state historical society.

(g) The failure of any person to have a land surveyor establish reference points as required by subsection (b) shall be a class C misdemeanor.

Sec. 24. K.S.A. 58-3102 is hereby amended to read as follows: 58-3102. As used in this act and the act of which this section is amendatory, unless the context otherwise requires:

(a) "Apartment" or "condominium unit" means a part of the property intended for any type of independent use whether residence, office, the operation of any industry or business or other use, including one or more rooms or enclosed spaces located on one or more floors (or part or parts thereof) in a building, and with a direct exit to a public street or highway or to a common area leading to such street or highway. To the extent that ~~walls~~ walls, floors, and ceilings are designated as the boundaries of a condominium unit or apartment by the declaration, all doors and windows therein, and all lath, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the furnished surfaces thereof, shall be deemed a part of such unit, while all other portions of such walls, floors and ceilings shall be deemed a part of the common areas and facilities. If any chutes, flues, ducts, conduits, wires, bearing walls, bearing columns, or any other apparatus lies partially within and partially outside of the designated boundaries of a unit, any portions thereof serving only that unit shall be deemed a part of that unit, while any portions thereof serving more than one unit or any portion of the common elements shall be deemed a part of the common areas and facilities. All space, interior partitions, and other fixtures and improvements within the boundaries of a unit shall be deemed a part of that unit. Any shutters, awnings, window boxes, doorsteps, porches, balconies, patios, and any



other apparatus designed to serve a single unit, but located outside the boundaries thereof, shall be deemed a limited common area and facility appertaining to that unit exclusively.

(b) “Apartment owner” means the person or persons owning an apartment or condominium unit in fee simple absolute and an undivided interest in the fee simple estate of the common areas and facilities as specified and established in the declaration.

(c) “Apartment number” means the number, letter, or combination thereof designating the apartment or condominium unit in the declaration.

(d) “Association of apartment owners” means all of the apartment or condominium unit owners acting as a group in accordance with the bylaws and declaration.

(e) “Building” means a building, containing one or more apartments or condominium units, or two or more buildings, each containing one or more apartments or condominium units and comprising a part of the property.

(f) “Condominium” means “property” as hereinafter defined.

(g) “Common areas and facilities,” unless otherwise provided in the declaration or lawful amendments thereto means and includes:

- (1) The land on which the building is located;
- (2) the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, and entrances and exits of the building;
- (3) the basements, yards, gardens, parking areas and storage spaces;
- (4) the premises for the lodging of janitors or persons in charge of the property;
- (5) installations of central services such as power, lights, gas, hot and cold water, heating, refrigeration, air conditioning and incinerating;
- (6) the elevators, tanks, pumps, motors, fans, compressors, ducts and in general all apparatus and installations existing for common use;
- (7) such community and commercial facilities as may be provided for in the declaration; and
- (8) all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

(h) “Convertible land” shall mean a building site for one or more proposed additional condominium units within the submitted land which may be created in accordance with the declaration and this act.

(i) “Common expenses” means and include:

- (1) All sums lawfully assessed against the apartment owners by the association of apartment owners;
- (2) expenses of administration, maintenance, repair or replacement of the common areas and facilities;
- (3) expenses agreed upon as common expenses by the association of apartment owners; *and*
- (4) expenses declared common expenses by provisions of this act, or by the declaration or the bylaws.

(j) “Common profits” means the balance of all income, rents, profits and revenues from the common areas and facilities remaining after the deduction of the common expenses.

(k) “Declaration” means the instrument by which the property is submitted to the provisions of this act as hereinafter provided, and such declaration as from time to time may be lawfully amended.

(l) “Expandable condominium” shall mean a condominium to which additional real property may be added in accordance with the provisions of the declaration and of this act.

(m) “Limited common areas and facilities” means and includes those common areas and facilities designated in the declaration as reserved for use of certain apartment or apartments to the exclusion of the other apartments.

(n) “Majority” or “majority of apartment owners” means the apartment owners with ~~fifty-one percent (51%)~~ 51% or more of the votes in accordance with the percentages assigned in the declaration to the apartments for voting purposes.

(o) “Par value” shall mean a number of dollars or points assigned to each condominium unit by the declaration. If par value is stated in terms of dollars, that statement shall not be deemed to reflect or control value for taxation, fair market value, or for any purpose.

(p) “Person” means individual, corporation, partnership, association, trustee or other legal entity.

(q) “Property” means and includes the land, the building, all improvements and structures thereon, all owned in fee simple absolute and all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith, which have been or are intended to be submitted to the provisions of this act.

(r) “Recording officer” means the register of deeds of the county in which the property is located.

(s) “Size” shall mean the approximate square feet of floor space of each condominium unit computed by reference to the declaration and floor plans and rounded off to a whole number. Certain spaces may be excluded or estimated in determining size if the same basis of calculation is used for all units of the condominium and is described in the declaration or floor plans.

(t) “Submitted land” shall mean real property, and any incidents thereto or interests therein, lawfully submitted to the provisions of this act as hereinafter provided.

Sec. 25. K.S.A. 68-104 is hereby amended to read as follows: 68-104.

(a) Upon presentation of any petition for a road, or for the alteration or vacation of any road, to the county commissioners, at any regular session of their board, it shall be the duty of ~~said~~ *such* commissioners, if they find the petition to be a legal one, and that the proper bond has been filed, to appoint three disinterested householders of the county as viewers with ~~said~~ *such* commissioners, who may act as viewers of ~~said~~ *such* road, and the county clerk shall give notice by advertisement set up in the county clerk’s office and in every municipal township through which any part of ~~said~~ *such* road is designed to be laid out, altered, or vacated, for at least ~~twenty~~ 20 days, and by publication for two consecutive weeks in a newspaper of general circulation in the county, setting forth that such petition has been presented, giving the substance thereof, and that the commissioners or the viewers, on the day designated, which shall not be more than ~~twenty~~ 20 days after the date of the second publication in the newspaper of the notice herein required, will proceed to view the ~~said~~ *such* road, and give all parties a hearing.

(b) They shall also cause a record of such notice to be entered on their journal by the county clerk. They shall issue an order directing the county surveyor to meet with them at the time and place named in ~~said~~ *such* notice to survey such road. In case of failure to meet on the day designated, they may meet on the following day, without further notice; and in case of failure to meet within the time herein specified, new notice shall be given as hereinafter provided; that in all applications for the location, change and relocation of any road to be located upon or along any section line, and the petition shall so state, and shall specify the section lines to be followed, the place of beginning and the place of ending, the survey may be dispensed with, and in case the owners of the lands taken agree in writing to the proposed location, relocation, or change, and the commissioners are satisfied that the location, relocation or change prayed for is practicable, and can be made without unreasonable expense, they may dispense with the viewing of such location, relocation or change of road, and shall order the same to be surveyed, platted and opened, and shall also direct the county ~~engineer~~ *surveyor* to note such location, relocation or change of roads upon the road records of ~~his~~ *such county surveyor’s* office.

Sec. 26. K.S.A. 68-131 is hereby amended to read as follows: 68-131.

(a) It shall be lawful for the township board of any township to establish and maintain a sidewalk not more than five (5) feet in width in and along the outer edge of any highway or across the same whenever a petition for such sidewalk or crossing is signed by the resident owners representing ~~fifty-one percent~~ 51% or more of the property abutting upon the improvement sought to be made, and when ~~said~~ *such* petition is filed with the clerk of the township board, the township board shall cause such improvement to be made and shall contract therefor and shall levy a tax for the actual cost of such improvement against the lots, parcels or pieces of land abutting upon such improvement on the front-foot basis, and the clerk of the township board shall certify the amount so levied against each lot, parcel or piece of land for such improvement to the county clerk, who shall place the same upon the assessment rolls and ~~said~~ *such* tax shall be collected in

the same manner as other taxes: ~~Provided, That~~. The owner of any lot, parcel or piece of land liable to any such special assessment may redeem ~~his~~ *such owner's* property from such liability by paying the entire amount chargeable against ~~his~~ *such owner's* property at the time the amount of such tax is ascertained or after the issuance of the sidewalk scrip by paying the full amount of such special assessment represented by such scrip, together with the accrued interest.

(b) The owners shall designate in their petitions the width and kind of sidewalks, and the board shall determine the plans and specifications and material for such improvement in accordance with such petitions, and shall issue scrip to contractors for the payment of the same for five ~~(5)~~ years with interest at the rate of not to exceed ~~five (5) percent~~ 5%, ~~one fifth (1/5)~~ 1/5 of such scrip and interest payable each year. ~~It shall be the duty of the county surveyor to establish the grades for all such improvements.~~ Resident owners in this act shall be considered residents of the township wherein the improvement is sought to be made.

Sec. 27. K.S.A. 2010 Supp. 68-1402 is hereby amended to read as follows: 68-1402. (a) The reconstruction, improvement, removal and relocation of bridges or approaches thereto provided for in this act shall be by written contract separately made and awarded as to each bridge, to the lowest responsible bidder, upon sealed proposals, based upon plans and specifications therefor on file in the office of the county clerk of the county. The county ~~surveyor of the county~~ *engineer*, when so directed to do by the board of county commissioners, shall make all necessary surveys and investigations and prepare plans and specifications for the reconstruction, improvement, removal or relocation of any bridge or the approaches thereto, and grade separation structures connected therewith, together with an estimate under oath of the cost thereof, and file such plans, specifications and estimate in the office of the county clerk of the county. No contract shall be awarded for any such improvement at a price in excess of ~~said~~ *the* estimated cost.

(b) The board of county commissioners shall have power, if they deem it necessary, to employ engineers to assist the county ~~surveyor~~ *engineer* in preparing plans and specifications or superintending the construction of such improvements, and to pay such engineers out of the proceeds of bonds issued on account of the cost thereof. After considering and approving plans and specifications, prepared and filed as aforesaid, the board of county commissioners shall advertise for three consecutive weeks in the official county paper for sealed proposals for the construction of such improvements or works, in accordance with the plans and specifications therefor. The board of county commissioners shall require any contractor to whom any such contract is awarded to enter into a written contract, and to secure the performance thereof by a bond signed by a surety company. All bids for the construction of any such improvement or work shall be presented simultaneously to the board of county commissioners and opened forthwith by them, in the presence of the public and all bidders present.

Sec. 28. K.S.A. 68-1407 is hereby amended to read as follows: 68-1407. (a) The county ~~surveyor of said county~~ *engineer*, when ~~so~~ directed ~~to do~~ by the board of county commissioners, shall make all necessary surveys and investigations and prepare plans and specifications for the construction of ~~such a~~ bridge and the approaches thereto, together with an estimate, ~~under oath~~, of the cost thereof, and file such plans, specifications and estimate in the office of the county clerk of ~~said~~ *such* county. ~~Said~~ *Such* bridge shall be constructed under written contract made and awarded to the lowest responsible bidder, upon sealed proposals therefor based upon the plans and specifications so prepared and filed in the office of the county clerk of ~~said~~ *such* county. No contract shall be awarded therefor at a price in excess of ~~said~~ *the* estimated cost.

(b) The plans and specifications prepared and filed as above provided shall be considered and approved by the board of county commissioners and thereafter ~~said~~ *the* board shall advertise for three consecutive weeks in the official county paper for sealed proposals for the construction of ~~said~~ *such* bridge, and the contract therefor shall be awarded to the lowest responsible bidder, and any contractor to whom any such contract is awarded, shall enter into a written contract therefor and to secure the faithful performance thereof shall file in the office of the county clerk of ~~said~~ *such* county a bond duly executed by one or more surety companies duly au-

thorized to do business in this state to be approved by ~~said~~ the board of county commissioners.

Sec. 29. K.S.A. 79-409 is hereby amended to read as follows: 79-409. If the owner or occupant of any lot or tract of land shall neglect or refuse to furnish the description required by K.S.A. 79-408, *and amendments thereto*, when demanded by the county clerk, ~~the county~~ a land surveyor shall ascertain the boundaries and quantity of such property, and such description shall be held to be valid for all purposes of taxation; and the expense of such survey shall be returned to the county clerk of the county in which such property is located; and, by such county clerk, shall be added to the tax upon such property and made a part thereof, and when collected the county treasurer shall be required upon warrants drawn by the county clerk on the orders of the board of county commissioners to pay the expenses of said survey.

Sec. 30. K.S.A. 19-1403, 19-1407, 19-1411, 19-1412, 19-1413, 19-1416, 19-1417, 19-1420, 19-1421, 19-1422, 19-1423, 19-1426, 19-1430, 19-1432, 24-106, 24-802, 25-101, 42-358, 58-2001, 58-2002, 58-2003, 58-2004, 58-2005, 58-2011, 58-3102, 68-104, 68-108, 68-131, 68-1407 and 79-409 and K.S.A. 2010 Supp. 68-1402 are hereby repealed.

Sec. 31. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

\_\_\_\_\_  
SENATE concurred in  
HOUSE amendments \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE  
as amended \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*