

2018 Kansas Statutes

66-525. Railroad right-of-way; abandonment, when; requirements; release; notice; exception. (a)

For purposes of this section, a railroad right-of-way shall be considered abandoned when:

(1) The tracks, ties, and other components necessary for operation of the rail line are removed from the right-of-way following the issuance of an abandonment order by the appropriate federal or state authority;

(2) if, within two years after the exercise of such an order, removal of such components is not completed and railroad operating authority is not restored or reissued by an appropriate court or other federal or state authority; or

(3) if no rail line is placed on the right-of-way within 10 years after the right-of-way is acquired. A railroad right-of-way shall not be considered abandoned if the railroad company or any other entity continues to use the right-of-way for railroad purposes after abandonment authority has been issued.

(b) If the grantee or assignee of record of a recorded railroad right-of-way abandons such right-of-way, such grantee or assignee shall:

(1) Remove crossbucks and modify signal devices or install "exempt" signs at all locations within 90 days of abandonment; and

(2) file a release of all right, title and interest in the right-of-way with the register of deeds of the counties in which the property is located, within 180 days after being requested by any owner of property servient to the right-of-way.

(c) If a grantee or assignee of record of a railroad right-of-way refuses or neglects to file a release when required by subsection (b), the owner of the servient property may bring an action in a court of competent jurisdiction to recover from the grantee or assignee of record damages in the amount of \$500, together with costs and reasonable attorney fees for preparing and prosecuting the action. The owner may recover such additional damages as the evidence warrants, and may obtain injunctive relief to quiet the title and eject any unauthorized parties from the property.

(d) A grantee or assignee of railroad right-of-way, at any time, may file a general release of all right, title and interest in the right-of-way of one or more particular rail lines or portions thereof with the register of deeds of the county or counties in which such property is located. If such action has been taken, the grantee or assignee shall be relieved of any further obligation under this section to file individual releases of any right-of-way included in such a general release.

(e) Within 30 days after entering abandoned railroad right-of-way property upon the tax rolls pursuant to K.S.A. 79-401 et seq., and amendments thereto, the county clerk of each county in which such property is so entered shall forward to the most recent railroad company holder of such property for right-of-way purposes, a certified list of the names and addresses of all property owners so entered upon the tax rolls following abandonment.

Within 30 days after receipt of such certified list by the railroad company, it shall send a notice of abandonment by first-class mail to each landowner at the address provided. The grantee or assignee of record of a recorded railroad right-of-way who abandons such right-of-way and provides the notice of such abandonment required by this subsection shall incur no civil or criminal liability for failure to notify any person who claims, or may claim, ownership of property servient to the abandoned right-of-way, nor shall such grantee or assignee incur any civil or criminal liability for notifying any person who has no legal claim to ownership of property servient to the abandoned right-of-way. The notice required by this subsection shall not create any legal right, be construed as a warranty or guarantee, nor shall such notice impair or cloud any lawful claim, right, title or interest of any person.

(f) Except where a railroad company conveys its right, title and interest in and to railroad right-of-way which it owns in fee simple, any conveyance by a railroad company of any actual or purported right, title or interest in property acquired in strips for right-of-way to any party other than the owner of the servient estate shall be null and void, unless such conveyance is made with a manifestation of intent that the railroad company's successor shall maintain railroad operations on such right-of-way.

(g) As used in this section, "railroad company" has the meaning of such term as defined in K.S.A. 66-2,123, and amendments thereto.

History: L. 1986, ch. 247, § 1; L. 1987, ch. 258, § 1; L. 1993, ch. 105, § 1; L. 2005, ch. 21, § 9; L. 2006, ch. 108, § 3; July 1.