

## HOUSE BILL No. 2356

By Representative McCreary

2-12

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AN ACT concerning property taxes; relating to redemption of real estate; amending K.S.A. 2002 Supp. 79-2401a and 79-2801 and repealing the existing sections.

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

Section 1. K.S.A. 2002 Supp. 79-2401a is hereby amended to read as follows: 79-2401a. (a) (1) Except as provided by paragraph (2) and subsection (b), real estate bid off by the county for both delinquent taxes and special assessments, as defined by subsection (c), shall be held by the county until the expiration of ~~two years~~ *one year* from the date of the sale, subject only to the right of redemption as provided by this section. Any owner or holder of the record title, the owner's or holder's heirs, devisees, executors, administrators, assigns or any mortgagee or the owner's or holder's assigns may redeem the real estate sold in the sale at any time within ~~two years~~ *one year* after the sale by paying to the county treasurer the amount for which the real estate was sold plus the interest accrued, all delinquent taxes and special assessments and interest thereon that have accrued after the date of such sale which remain unpaid as of the date of redemption and costs and expenses of the sale and redemption, including but not limited to, abstracting costs incurred in anticipation of a tax sale.

(2) Any abandoned building or structure and the land accommodating such building or structure bid off by the county for both delinquent taxes and special assessments, as defined by subsection (c), shall be held by the county until the expiration of ~~one year~~ *six months* from the date of the sale, subject only to the right of redemption as provided by this section. Any owner or holder of the record title, the owner's or holder's heirs, devisees, executors, administrators, assigns or any mortgagee or the owner's or holder's assigns may redeem the real estate sold in the sale at any time within ~~one year~~ *six months* after the sale by paying to the county treasurer the amount for which the real estate was sold plus the interest accrued, all delinquent taxes and special assessments and interest thereon that have accrued after the date of such sale which remain unpaid as of the date of redemption and costs and expenses of the sale and redemption, including but not limited to abstracting costs incurred in anticipation

1 of a tax sale.

2 When used in this subsection “abandoned building or structure and  
3 the land accommodating such building or structure” shall mean a building  
4 or structure which, for a period of at least one year, has been unoccupied  
5 and which there has been a failure to perform reasonable maintenance  
6 of such building or structure and the land accommodating such building  
7 or structure.

8 (b) (1) Except as provided by paragraph (2), real estate which is a  
9 homestead under section 9 of article 15 of the Kansas Constitution and  
10 all real estate not described in subsection (a) shall be held by the county  
11 until the expiration of ~~three years~~ *18 months* from the date of the sale  
12 and may be redeemed partially by paying to the county treasurer the  
13 amount of taxes for which the real estate was sold for one or more years,  
14 beginning with the first year for which the real estate was carried on the  
15 tax-sale book of the county plus interest at the rate prescribed by K.S.A.  
16 79-2004, and amendments thereto, on the amount from the date the same  
17 was carried on the sale book. Upon payment and partial redemption, the  
18 time when a tax foreclosure sale may be commenced shall be extended  
19 by the number of years paid in the partial redemption.

20 (2) In Johnson county, real estate which is a homestead under section  
21 9 of article 15 of the Kansas constitution and all real estate not described  
22 in subsection (a) shall be held by the county until the expiration of ~~three~~  
23 ~~years~~ *18 months* from the date of the sale and may be redeemed partially  
24 by paying to the county treasurer the amount of taxes for which the real  
25 estate was sold for one or more years, beginning with the most recent  
26 year for which the real estate was carried on the tax-sale book of the  
27 county plus interest at the rate prescribed by K.S.A. 79-2004, and amend-  
28 ments thereto, on the amount from the date the same was carried on the  
29 sale book.

30 (c) For the purpose of this act, the term “real estate bid off by the  
31 county for both delinquent taxes and special assessments” shall include  
32 only real estate on which there are delinquent taxes of a general ad va-  
33 lorem property tax nature and delinquent special assessments or other  
34 special taxes levied by a city, county or other municipality in response to  
35 a petition or request of the landowners. Upon publication of the listing  
36 of real estate subject to sale under the provisions of K.S.A. 79-2302, and  
37 amendments thereto, the clerk of any city, county or other municipality  
38 which has levied special assessments during the past 10 years shall certify  
39 to the county treasurer those listed parcels of real estate which are located  
40 within a special assessment district, but no parcel shall be so certified  
41 unless the public improvement was constructed pursuant to a petition or  
42 request of one or more landowners sufficient to authorize the improve-  
43 ment under the applicable statutory special assessment procedure used

1 by the city, county or other municipality.

2 (d) If at the expiration of the redemption period, the real estate has  
3 not been redeemed, the real estate shall be disposed of by foreclosure  
4 and sale in the manner provided by K.S.A. 79-2801 *et seq.*, and amend-  
5 ments thereto.

6 Sec. 2. K.S.A. 2002 Supp. 79-2801 is hereby amended to read as  
7 follows: 79-2801. (a) Except as provided by K.S.A. 79-2811, and amend-  
8 ments thereto, whenever real estate has been or shall be sold and bid in  
9 by the county at any delinquent tax sale and remains unredeemed ~~on~~  
10 ~~September 1 of the second year after the sale, or any extension thereof~~  
11 ~~as provided by subsection (b) of K.S.A. 79-2401a, and amendments~~  
12 ~~thereto, or whenever real estate described by subsection (a)(2) of K.S.A.~~  
13 ~~79-2401a, and amendments thereto, has been or shall be sold and bid in~~  
14 ~~by the county at any delinquent tax sale and remains unredeemed on~~  
15 ~~September 1 of the first year after the sale~~ *beyond the time periods pre-*  
16 *scribed pursuant to K.S.A. 79-2401a, and amendments thereto*, the board  
17 of county commissioners shall order the county attorney or county counsel-  
18 or and it shall be the duty of the county attorney or county counselor  
19 to institute an action in the district court, in the name of the board of  
20 county commissioners, against the owners or supposed owners of the real  
21 estate and all persons having or claiming to have any interest therein or  
22 thereto, by filing a petition with the clerk of the court. The board of  
23 county commissioners may provide for special legal and other assistance  
24 necessary to secure the timely performance of duties required by this act.  
25 Whenever the real estate involved is a mineral interest in land which has  
26 been severed from the fee, the bringing of the action for the foreclosure  
27 of the mineral interest shall be within the discretion of the board of county  
28 commissioners. Whenever the aggregate assessed valuation of the real  
29 estate subject to sale is less than \$300,000, or the aggregate amount of  
30 delinquent taxes, including special assessments, is less than \$10,000, the  
31 bringing of the action shall be within the discretion of the board of county  
32 commissioners. The petition shall contain a description of each tract, lot  
33 or piece of real estate including, if in a city of the first or second class,  
34 the street number or location. The petition shall state, as far as practi-  
35 cable, the amount of taxes, charges, interest and penalties chargeable to  
36 each tract, lot or piece of real estate, the name of the owner, supposed  
37 owner and party having or claiming to have any interest therein or thereto,  
38 and giving the year the real estate was sold for delinquent taxes under  
39 the provisions of K.S.A. 79-2302, and amendments thereto. The petition  
40 shall request that the court determine the amount of taxes, charges, in-  
41 terest and penalties chargeable to each particular tract, lot or piece of  
42 real estate, the name of the owner or party having any interest therein.  
43 The petition also shall request that the court adjudge and decree the

1 amount due to be a first and prior lien upon the real estate and that the  
2 same be sold at public sale for the satisfaction of the lien, costs, charges  
3 and expenses of the proceedings and sale and other necessary relief. The  
4 petition shall be filed in duplicate and a copy delivered by the clerk to  
5 the county treasurer, who thereafter shall accept no payments of taxes  
6 upon the real estate included in the petition except as provided by K.S.A.  
7 79-2801 to 79-2810, inclusive, and amendments thereto.

8 A summons shall be issued and personally served or publication made  
9 as provided in other cases under the code of civil procedure. If service is  
10 made by publication, the notice, in addition to the requirements pre-  
11 scribed by the code of civil procedure, shall contain a description of the  
12 real estate. Any member of the board of county commissioners, county  
13 attorney or county counselor who fails to perform the duties required by  
14 this section shall forfeit the office held by the officer. Any person may  
15 secure enforcement of the provisions of this act through mandamus. Such  
16 proceeding shall be initiated by filing a petition in a court of competent  
17 jurisdiction.

18 (b) The governing body of any city may provide for the rendering of  
19 legal and other assistance to the county attorney or county counselor to  
20 secure the expeditious judicial foreclosure of real estate on which there  
21 is unredeemed delinquent tax liens, including delinquent special assess-  
22 ments. The provision of such services by the city shall not relieve any  
23 county officer of the requirement to perform the duties required by this  
24 act. The actual and necessary costs incurred by a city in providing such  
25 assistance shall be considered as costs incident to the sale of the real estate  
26 and the city may be reimbursed therefor from the proceeds of the sale  
27 in an amount apportioned pursuant to K.S.A. 79-2805, and amendments  
28 thereto.

29 (c) If the board of county commissioners fails to initiate proceedings  
30 for a judicial tax foreclosure sale on property located within the corporate  
31 limits of a city and if the taxes on such property have remained delinquent  
32 for at least three years after such property first becomes eligible for sale  
33 by the county at a judicial tax foreclosure sale pursuant to K.S.A. 79-2801  
34 et seq., and amendments thereto, the governing body of the city in which  
35 such property is located may initiate a judicial tax foreclosure sale on such  
36 property. The governing body of such city shall have the same powers  
37 and duties of the board of county commissioners under K.S.A. 79-2801  
38 et seq., and amendments thereto, which are necessary to effectuate the  
39 sale of such property. The city attorney of such city shall have the same  
40 powers and duties of the county attorney or county counselor under  
41 K.S.A. 79-2801 et seq., and amendments thereto, relating to the judicial  
42 tax foreclosure sale of such property. All other county officers shall per-  
43 form the duties prescribed by law relating to the sale of such property in

1 the same manner as if such sale had been initiated by the board of county  
2 commissioners.

3 Sec. 3. K.S.A. 2002 Supp. 79-2401a and 79-2801 are hereby  
4 repealed.

5 Sec. 4. This act shall take effect and be in force from and after its  
6 publication in the statute book.

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