

HOUSE BILL No. 2664

By Committee on Taxation

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AN ACT concerning taxation; relating to collection of delinquent taxes; tax liens; amending K.S.A. 2003 Supp. 79-3235 and 79-3617 and repealing the existing sections.

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

Section 1. K.S.A. 2003 Supp. 79-3235 is hereby amended to read as follows: 79-3235. If any tax imposed by this act or any portion of such tax is not paid within 60 days after it becomes due, the secretary or the secretary's designee shall issue a warrant under the secretary's or the secretary's designee's hand and official seal, directed to the sheriff of any county of the state, commanding the sheriff to levy upon and sell the real and personal property of the taxpayer found within the sheriff's county for the payment of the amount thereof, with the added penalties, interest and the cost of executing the warrant and to return the warrant to the secretary or the secretary's designee and pay to the secretary or the secretary's designee the money collected by virtue of it not more than 60 days from the date of the warrant. The sheriff, within five days after the receipt of the warrant, shall file with the clerk of the district court of the county a copy thereof, and thereupon the clerk shall either enter in the appearance docket the name of the taxpayer mentioned in the warrant, the amount of the tax or portion of it, interest and penalties for which the warrant is issued and the date such copy is filed and note the taxpayer's name in the general index. No fee shall be charged for either entry. The amount of such warrant so docketed shall thereupon become a lien upon the title to and interest in the real *and personal* property of the taxpayer against whom it is issued. The sheriff shall proceed in the same manner and with the same effect as prescribed by law with respect to executions issued against property upon judgments of a court of record and shall be entitled to the same fees for services to be collected in the same manner.

The court in which the warrant is docketed shall have jurisdiction over all subsequent proceedings as fully as though a judgment had been rendered in the court. In the discretion of the secretary or the secretary's designee a warrant of like terms, force and effect may be issued and directed to any officer or employee of the secretary, and in the execution

1 thereof such officer or employee shall have all the powers conferred by
2 law upon sheriffs, and the subsequent proceedings thereunder shall be
3 the same as provided where the warrant is issued directly to the sheriff.
4 The taxpayer shall have the right to redeem the real estate within a period
5 of 18 months from the date of such sale. If a warrant is returned, unsat-
6 isfied in full, the secretary or the secretary's designee shall have the same
7 remedies to enforce the claim for taxes as if the state of Kansas had
8 recovered judgment against the taxpayer for the amount of the tax. No
9 law exempting any goods and chattels, lands and tenements from forced
10 sale under execution shall apply to a levy and sale under any such warrant
11 or upon any execution issued upon any judgment rendered in any action
12 for income taxes. Except as provided further, the secretary or the secre-
13 tary's designee shall have the right after a warrant has been returned
14 unsatisfied or satisfied only in part, to issue alias warrants until the full
15 amount of the tax is collected.

16 If execution is not issued within 10 years from the date of the docketing
17 of any such warrant, or if 10 years shall have intervened between the date
18 of the last execution issued on such warrant, and the time of issuing
19 another writ of execution thereon, such warrant shall become dormant,
20 and shall cease to operate as a lien on the real estate of the delinquent
21 taxpayer. Such dormant warrant may be revived in like manner as dor-
22 mant judgment under the code of civil procedure.

23 Sec. 2. K.S.A. 2003 Supp. 79-3617 is hereby amended to read as
24 follows: 79-3617. Whenever any taxpayer liable to pay any sales or com-
25 pensating tax, refuses or neglects to pay the tax, the amount, including
26 any interest or penalty, shall be collected in the following manner. The
27 secretary of revenue or the secretary's designee shall issue a warrant un-
28 der the hand of the secretary or the secretary's designee and official seal
29 directed to the sheriff of any county of the state commanding the sheriff
30 to levy upon and sell the real and personal property of the taxpayer found
31 within the sheriff's county to satisfy the tax, including penalty and interest,
32 and the cost of executing the warrant and to return such warrant to the
33 secretary or the secretary's designee and pay to the secretary or the sec-
34 retary's designee the money collected by virtue thereof not more than 90
35 days from the date of the warrant. The sheriff shall, within five days, after
36 the receipt of the warrant file with the clerk of the district court of the
37 county a copy thereof, and thereupon the clerk shall either enter in the
38 appearance docket the name of the taxpayer mentioned in the warrant,
39 the amount of the tax or portion of it, interest and penalties for which
40 the warrant is issued and the date such copy is filed and note the tax-
41 payer's name in the general index. No fee shall be charged for either such
42 entry. The amount of such warrant so docketed shall thereupon become
43 a lien upon the title to, and interest in, the real *and personal* property of

1 the taxpayer against whom it is issued. The sheriff shall proceed in the
2 same manner and with the same effect as prescribed by law with respect
3 to executions issued against property upon judgments of a court of record,
4 and shall be entitled to the same fees for services.

5 The court in which the warrant is docketed shall have jurisdiction over
6 all subsequent proceedings as fully as though a judgment had been ren-
7 dered in the court. A warrant of similar terms, force and effect may be
8 issued by the secretary or the secretary's designee and directed to any
9 officer or employee of the secretary or the secretary's designee, and in
10 the execution thereof such officer or employee shall have all the powers
11 conferred by law upon sheriffs with respect to executions issued against
12 property upon judgments of a court of record and the subsequent pro-
13 ceedings thereunder shall be the same as provided where the warrant is
14 issued directly to the sheriff. The taxpayer shall have the right to redeem
15 the real estate within a period of 18 months from the date of such sale.
16 If a warrant is returned, unsatisfied in full, the secretary or the secretary's
17 designee shall have the same remedies to enforce the claim for taxes as
18 if the state of Kansas had recovered judgment against the taxpayer for
19 the amount of the tax. No law exempting any goods and chattels, land
20 and tenements from forced sale under execution shall apply to a levy and
21 sale under any of the warrants or upon any execution issued upon any
22 judgment rendered in any action for sales or compensating taxes. Except
23 as provided further, the secretary or the secretary's designee shall have
24 the right after a warrant has been returned unsatisfied, or satisfied only
25 in part, to issue alias warrants until the full amount of the tax is collected.
26 No costs incurred by the sheriff or the clerk of the court shall be charged
27 to the secretary or the secretary's designee.

28 If execution is not issued within 10 years from the date of the docketing
29 of any such warrant, or if 10 years shall have intervened between the date
30 of the last execution issued on such warrant, and the time of issuing
31 another writ of execution thereon, such warrant shall become dormant,
32 and shall cease to operate as a lien on the real estate of the delinquent
33 taxpayer. Such dormant warrant may be revived in like manner as dor-
34 mant judgments under the code of civil procedure.

35 Sec. 3. K.S.A. 2003 Supp. 79-3235 and 79-3617 are hereby repealed.

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

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