

Approved: 3-31-95  
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION.

The meeting was called to order by Chairperson Phill Kline at 2:30 p.m.. on March 30, 1995 in Room 519-S of the Capitol.

All members were present except: Rep. Les Donovan - absent  
Rep. Clyde Graeber - absent  
Rep. Nancy Kirk - absent  
Rep. Doug Mays - absent  
Rep. Dennis McKinney - absent  
Rep. Eugene Shore - absent  
Rep. Jene Vickery - absent  
Rep. Gwen Welshimer - absent  
Rep. Dennis Wilson - absent

Committee staff present: Chris Courtwright, Legislative Research Department  
Ann McMorris, Committee Secretary

Conferees appearing before the committee: none

Others attending: See attached list

Chair entertained motions, amendments, discussion on :

**SB 88 - Ottawa county jail facility sales tax authorized.**

Moved by Larkin, seconded by Hayzlett, amend SB 88 to include this list of items: (1) phase in of remodeling for commercial and residential over 4 years; (2) the Johnson County sales tax redistribution formula; (3) nursery exemptions; (4) FlexEl exemptions; (5) exempt non-profit nursing homes from sales tax on utilities; (6) exempt fumigants from sales tax; (7) exempt PTA and PTO. Motion carried.

Moved by Larkin, seconded by Hayzlett, pass SB 88 as amended. Motion carried.

Chair entertained motions, amendments, discussion on:

**SB 165 - Redemption of real property subject to sale for delinquent taxes**

Moved by Hayzlett, seconded by Larkin, amend SB 165 by striking the original language and inserting an amendment to KSA 79-2018 to allow mortgage holders to bid at tax sales. Motion carried. (Attachment 1)

Moved by Hayzlett, seconded by Edmonds, pass SB 165 favorably as amended. Motion carried. Pettey recorded "no" vote.

Adjournment.

The next meeting is scheduled on call of chair.

TAXATION COMMITTEE GUEST LIST

DATE: March 30, 1995

NAME	REPRESENTING
STEVE KEADNEY	KS OIL MARKETERS
Bire Janice	Boeing
Ken Bobo	4th Financial Corp.
Patrick Hurley	KAPL
Pam Somerville	KS AUTO DEALERS ASSN
Martin Hauer	Hauer's Capitol Report

CHAPTER 200  
SENATE BILL No. 436

AN ACT relating to delinquent property taxes; prohibiting employment on a contingent fee basis of persons to audit personal property tax returns; concerning the collection thereof; concerning persons entitled to purchase at tax foreclosure sales; amending K.S.A. 79-2018 and 79-2804g and repealing the existing sections.

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

Section 1. K.S.A. 79-2018 is hereby amended to read as follows: 79-2018. The board of county commissioners of any county having a population of more than one hundred thousand (100,000) may employ attorneys or other persons to assist the county counselor in the collection of personal property taxes remaining unpaid from and after the date the same became a judgment by persons no longer residents of such county. The employment of such attorney or other persons shall be in writing and shall be on a contingent fee basis, but in no event shall the fees and charges for said such collections exceed the sum of fifty percent (50%) 50% of the amount collected. Any taxes so collected shall be credited ratably to the funds for which said such taxes were levied and the cost of collecting shall be apportioned and charged ratably against the funds for which such taxes were collected.

New Sec. 2. The board of county commissioners of any county shall not employ on a contingent fee basis any person to audit personal property tax returns for the purpose of discovering property that has escaped taxation or been undervalued.

Sec. 3. K.S.A. 79-2804g is hereby amended to read as follows: 79-2804g. (a) Whenever any tract, lot or piece of real estate is offered for sale at public auction pursuant to K.S.A. 79-2804, and amendments thereto, such tract, lot or piece of real estate shall not be sold, either directly or indirectly, to:

(1) Any person having a statutory right to redeem such real estate prior to such sale, pursuant to the provisions of K.S.A. 79-2803, and amendments thereto; for an amount less than the judgment lien and interest thereon; plus the costs, charges and expenses of the proceedings and sale; as set forth in the execution and order of sale issued pursuant to K.S.A. 79-2804; and amendments thereto;

~~(2) any person who held an interest in a tract as owner or holder of the record title or any mortgagee or assignee who held an interest at any time when any tax constituting part of the county's judgment became due;~~

~~(2)(3) any parent, grandparent, child, grandchild, spouse, sibling, trustee or trust beneficiary of any person enumerated in paragraph (2); or~~

~~(3)(4) with respect to a title holding corporation, any current or former stockholder, current officer or director, or any person having a relationship enumerated in paragraph (3)2 to such stockholder, officer or director.~~

(b) If any such real estate is acquired by a county pursuant to K.S.A. 79-2804, and amendments thereto, and, at the end of six months from and after confirmation of such sale to the county, such real estate is advertised for sale at public auction, as provided in K.S.A. 79-2804f, and amendments thereto, such real estate shall not be sold, either prior to or at such auction, to any person having a statutory right to redeem such real estate, under the provisions of K.S.A. 79-2803, and amendments thereto, for an amount less than the original judgment lien and interest thereon, plus the costs, charges and expenses of the proceedings and sale, as set forth in the execution and order of sale issued pursuant to K.S.A. 79-2804, and amendments thereto.

(c) If any tract, lot or piece of real estate purchased at public auction pursuant to K.S.A. 79-2804, and amendments thereto, is transferred, sold, given or otherwise conveyed to any person who had a statutory right to redeem such real estate prior to such sale pursuant to K.S.A. 79-2803, and amendments thereto, within 10 years of the date of the public auction, such person shall be liable

who held an interest in a tract as owner or holder of the record title or who held an interest at any time when any tax constituting part of the county's judgment became due;



The KANSAS BANKERS ASSOCIATION  
800 S.W. Jackson, Suite 1500  
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• LEGAL DEPARTMENT  
(913) 232-3444  
FAX (913) 232-3484

ROUTE TO

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DATE: October 4, 1994  
TO: Compliance Officers  
FROM: Anne E. Lolley, Staff Attorney and Director  
of the Legal Department  
RE: Bidding At Tax Sales Prohibited

This mailing will alert Kansas bankers to a change in procedures relating to *tax sales*. Effective July 1, 1994, K.S.A. 79-2804g was amended to prohibit a mortgage holder from bidding on real property being sold at a tax sale. Mortgage holders can still *redeem* the property *prior to* the tax sale (K.S.A. 79-2803), and they can also *buy* the property from the county at the end of a six-month period following the sale. But *mortgage holders can no longer bid in at the tax sale.*

In the past, mortgage holders (banks) could bid at the tax sale. In effect, the bank "purchased" the property from the foreclosing county and paid off the tax obligation. The new law prohibits this "purchase" and will require banks to adopt new procedures where property taxes are not paid on mortgaged property. Banks should consult with local counsel to determine appropriate new procedures.

This provision (prohibiting a mortgage holder from bidding at the tax sale) is believed to be inadvertent--the result of a drafting error which occurred when the law was being amended. The issue will resurface during the 1995 legislative session, at which time KBA will work to reinstate a bank's right to bid at tax sales.

SOURCE: 1994 S.B. 436; K.S.A. 79-2804g. Our thanks to *Bill Robbins*, Farmers Bank & Trust, Great Bend, and *Joe Eaton*, Commerce Bank, El Dorado, who brought this matter to our attention. We also wish to acknowledge the assistance of *Jim Maag*, who helped with this memo.

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FARMERS &  
DROVERS BANK

October 7, 1994

Mr. James S. Maag  
Senior Vice President  
Kansas Bankers Association  
800 S.W. Jackson, #1500  
Topeka, Kansas 66612

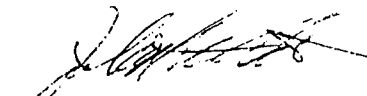
Re: Bidding at Tax Sales

Dear Jim:

Thanks for the memo in regard to the prohibition on bidding at tax sales. I had discovered this change and am sorry that I didn't think to call your office. Morris County is conducting a tax foreclosure and we were served notice of the foreclosure prior to the change in the law. Unfortunately, the sale will be after the change and thus come under the new law. The property we have the mortgage on is a homestead and I had originally filed an answer thinking we could bid it in at the Sheriff's sale.

Because of this change, we will have to pay the taxes, obtain a judgment of foreclosure, and wait out the homestead redemption period. I was glad to see that this might have been an error and hopefully you will be able to get it changed. If I can be of any assistance, please let me know. We need this changed, if possible.

Sincerely,



John H. White  
President

JHW/ksl

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