

SENATE BILL No. 192

By Senator Haley

2-4

1 AN ACT concerning property taxation; relating to judicial foreclosure and
2 order of sale of real estate by a county; requiring judicial foreclosure
3 public auctions to be conducted in person at a physical location in the
4 county; amending K.S.A. 79-2804 and repealing the existing section.
5

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

7 Section 1. K.S.A. 79-2804 is hereby amended to read as follows: 79-
8 2804. (a) After the rendition of such judgment, there shall be issued by the
9 clerk of the district court to the sheriff of the county an execution or order
10 of sale, ~~which~~ that shall describe each tract, lot or piece of real estate
11 mentioned and described in such judgment or decree, on which the lien has
12 not been paid, with the amount of lien charged to each tract, lot or piece of
13 real estate and the costs, charges and expenses of the proceedings and sale
14 chargeable to each piece, lot or tract, in such amount as the court may
15 order. If no order is made, then a sum equal to 5% of the amount set forth
16 in the petition as the lien for taxes, charges, interest and penalties
17 chargeable to each tract, lot or piece of real estate, with the name of the
18 ascertained owner thereof, as disclosed by the judgment or decree, with the
19 command to advertise and sell the real estate described therein. Such order
20 of sale shall be delivered to the sheriff of the county, who shall thereupon
21 cause notice of sale to be published once each week for three consecutive
22 weeks in ~~some~~ a newspaper of general circulation in the county, in
23 accordance with the provisions of K.S.A. 64-101, and amendments
24 thereto. The notice shall describe each tract, lot or piece of real estate to be
25 sold and the lien for which ~~it~~ real estate is to be sold, as determined by the
26 judgment of the court, and fix the date of sale, which shall not be less than
27 30 days from the date of the first publication. The notice shall state that the
28 sale will be held at the front door of the courthouse in the county or ~~shall~~
29 identify some other *physical* location in the county where the sale will be
30 held, as selected by the chief judge of the judicial district in which the
31 county is located.

32 (b) On the day fixed for the sale by such notice, the sheriff shall offer
33 each such tract, lot or piece of real estate for sale, separately, and the same
34 shall be sold at public auction for the highest and best bid obtainable
35 therefor. *For purposes of this section, "public auction" means an auction*
36 *sale that is open to the public, held in person at a physical location in the*

1 county and conducted in a manner that provides access to members of the
2 public to gather and interact in person to listen, view and observe the
3 bidding as bids are submitted in the auction. Bids by online or electronic
4 means of communication may be allowed to be submitted in addition to
5 bids by those persons physically present at the auction sale, but no such
6 auction or bidding shall be exclusively conducted online or by electronic
7 means. The sheriff may employ an auctioneer for such reasonable
8 compensation as may be determined by the court, to be allowed as a part
9 of the costs and expenses of the proceedings and sale. The sheriff or such
10 other person as may be authorized by the board of county commissioners,
11 if directed by the county commissioners, may bid at such sale in the name
12 of the county such amount as the county commissioners authorize. No bid
13 in behalf of such county shall be accepted in excess of the amount of the
14 judgment lien and interest thereon, as provided by law, plus the costs,
15 charges and expenses of the proceedings and sale as set forth in the
16 execution or order of sale. If the county is the successful bidder, the costs,
17 charges and expenses of the proceeding and sale set forth in the execution
18 and the order of sale shall be paid by the county to the clerk of the district
19 court and charged to the county general fund. If such sale, for want lack of
20 time, cannot be completed on the day fixed by the notice, ~~it~~ such sale may
21 be adjourned from day to day until completed.

22 (c) The sheriff shall make return to the clerk and the same, as soon as
23 practicable, shall be examined by the court, and if found by the court to be
24 regular, ~~it~~ such sale shall be confirmed, and the sheriff ordered to ~~forthwith~~
25 immediately execute to the purchasers at such sale a good and sufficient
26 deed therefor.

27 (d) If one person or the county purchases more than one tract, lot or
28 piece of real estate, the same may be included in one deed. The deed shall
29 be executed by the sheriff and acknowledged before the clerk of the
30 district court. No particular form of deed shall be required. ~~The deed~~
31 shall be sufficient if ~~it~~ such deed shows the date of sale, a description of
32 the property conveyed, the amount for which each tract, lot or piece of real
33 estate was sold, the name of the purchaser, the date such sale was
34 confirmed by the court and the title of the suit in which the tax lien was
35 foreclosed. The deed shall be filed for record, by the sheriff at the time the
36 deed is executed, in the office of the register of deeds of the county where
37 such real estate is situated. Any fee or charge for such filing shall be
38 collected from the successful bidder at the time of sale and deposited with
39 the register of deeds at the time of recording. When the deed is filed, it
40 shall vest in the purchaser or grantee therein named, as against all persons,
41 including, but not limited to, corporations and municipal corporations,
42 parties to such proceedings, a fee simple title thereto, subject only to valid
43 covenants running with the land and valid easement of record in use and

1 subject to taxes and interest ~~which~~ *that* have become a lien thereon,
2 subsequent to the date upon which such judgment was rendered. Such
3 deed shall be prima facie evidence of the regularity of all proceedings
4 prior to the date of filing the same for record.

5 (e) After the sale and confirmation thereof by the court, an execution
6 shall issue, upon praecipe of the county attorney, county counselor or the
7 purchaser, requiring the officer to deliver possession of the real estate,
8 particularly describing ~~it~~, *such real estate* to the parties entitled thereto,
9 including the county. When the deed is executed to the county by the
10 sheriff, ~~it~~ *such deed* shall *immediately* be filed for record ~~forthwith~~ in the
11 office of the register of deeds. Thereupon, the assessed valuation of such
12 real estate shall be eliminated from the assessment and tax rolls until such
13 time as such real estate is sold as provided by K.S.A. 79-2804f, and
14 amendments thereto.

15 Sec. 2. K.S.A. 79-2804 is hereby repealed.

16 Sec. 3. This act shall take effect and be in force from and after its
17 publication in the Kansas register.