

As Amended by House Committee

HOUSE BILL No. 2204

By Committee on Judiciary

2-1

1 AN ACT concerning civil procedure; relating to redemption of real
2 property; amending K.S.A. 2012 Supp. 60-2414 and repealing the
3 existing section.
4

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

6 Section 1. K.S.A. 2012 Supp. 60-2414 is hereby amended to read as
7 follows: 60-2414. (a) *Right of redemption by defendant owner.* Except as
8 stated in subsection (m) and as otherwise provided by law, the defendant
9 owner may redeem any real property sold under execution, special
10 execution or order of sale, at any time within 12 months from the day of
11 sale, for the amount paid by the current holder of the certificate of
12 purchase, including expenses incurred by the holder of the certificate of
13 purchase in accordance with subsection (d), together with interest at the
14 rate provided for in subsection (e)(1) of K.S.A. 16-204, and amendments
15 thereto, costs and taxes to the date of redemption. The defendant owner in
16 the meantime shall be entitled to the possession of the property. If the court
17 finds after hearing, either before or after sale, upon not less than 21 days'
18 notice to all parties, that the property has been abandoned, or is not
19 occupied in good faith, the period of redemption for the defendant owner
20 may be shortened or extinguished by the court. The right of redemption
21 shall not apply to oil and gas leaseholds. Except for mortgages covering
22 agricultural lands or *for mortgages covering single or two-family*
23 *dwellings owned by or held in trust for natural persons owning or holding*
24 *such dwelling as ~~a private~~ their residence*, the mortgagor may agree in
25 the mortgage instrument to a shorter period of redemption than 12 months
26 or may wholly waive the period of redemption.

27 (b) *Redemption by lien creditor.* Except as provided in subsection
28 (m), for the first three months of the redemption period, if any, the right of
29 the defendant owner or successors and assigns to redeem is exclusive. If
30 no redemption is made by the defendant owner during the time in which
31 the defendant owner has the exclusive right to redeem, any creditor
32 referred to in subsection (c) may redeem the property during the balance of
33 the redemption period remaining. If the defendant owner has waived the
34 right of redemption, a creditor shall have a right to redeem the property for
35 a period of three months from the date of the judicial sale. If the defendant
36 owner has agreed to a period of redemption of three months or less, a

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1 creditor shall have a right to redeem for a period of three months from the
 2 date of expiration of the defendant owner's redemption period. If the court
 3 shortens or extinguishes the period of redemption because of abandonment
 4 or lack of good faith occupation as provided in subsection (a), the court
 5 shall specify in the order a time not to exceed three months during which a
 6 creditor may redeem. The first creditor redeeming must pay only the
 7 amount of the successful sale bid, the expenses incurred by the holder of
 8 the certificate in accordance with subsection (d), together with interest at
 9 the rate provided for in subsection (e)(1) of K.S.A. 16-204, and
 10 amendments thereto, costs and taxes to the date of redemption. After
 11 redemption by a creditor, no further redemption shall be allowed except by
 12 the defendant owner or such owner's successors and assigns. If a creditor
 13 redeems during the period of redemption for the defendant owner, the
 14 defendant owner shall have the balance of such period, but in no event less
 15 than 14 days from the filing of the affidavit required in subsection (f), to
 16 redeem from the creditor. When the defendant owner or such owner's
 17 successors and assigns redeem subsequent to redemption by a creditor, the
 18 defendant owner or such owner's successors and assigns shall pay an
 19 amount equal to the redemption amount paid by such creditor, plus the
 20 amount required by subsection (f), and expenses incurred by the creditor in
 21 accordance with subsection (d), together with interest at the rate provided
 22 for in subsection (e)(1) of K.S.A. 16-204, and amendments thereto, costs
 23 and taxes to the date of redemption.

24 (c) ~~Creditors who may redeem. Any creditor whose who has a claim~~
 25 ~~on the property that is the subject of the action pursuant to this section~~
 26 ~~and such claim is or becomes a lien prior to the expiration of the time~~
 27 ~~allowed by law for the redemption by creditors may redeem. A mortgagee~~
 28 ~~may redeem upon the terms prescribed by this section before or after the~~
 29 ~~debt secured by the mortgage falls due.~~

30 (d) *Terms of redemption: rights of parties.* During the period allowed
 31 for redemption, the holder of the certificate of purchase or the creditor who
 32 has redeemed may pay the taxes on the lands sold, insurance premiums on
 33 the improvements thereon, other sums necessary to prevent waste, and
 34 interest or sums due, upon any prior lien or encumbrance on the real
 35 property. Upon the redemption of the property, the holder of the certificate
 36 or the creditor who has redeemed shall be entitled to repayment of all sums
 37 thus paid, together with interest at the rate provided for in subsection (e)(1)
 38 of K.S.A. 16-204, and amendments thereto. All expenses incurred by the
 39 holder of the certificate or the creditor who has redeemed shall be as
 40 shown by receipts or vouchers filed in the office of the clerk of the district
 41 court.

42 (e) *Effect of failure of debtor to redeem: deficiency.* If the defendant
 43 owner or such owner's successors or assigns fail to redeem as provided in

Restore current law:
 strike "who...such"
 and insert "whose"