

SENATE BILL No. 319

By Senator Haley

1-7

1 AN ACT concerning property taxation; relating to delinquent taxes;
2 requiring judicial foreclosure public auctions to be conducted in person
3 at a physical location in the county; amending K.S.A. 79-2804 and
4 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. 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 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 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 is to be sold, as determined by the judgment
26 of the court and fix the date of sale, which shall not be less than 30 days
27 from the date of the first publication. The notice shall state that the sale
28 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 On the day fixed for the sale by such notice, the sheriff shall offer each
33 such tract, lot or piece of real estate for sale, separately, and the same shall
34 be sold at public auction for the highest and best bid obtainable therefor.
35 *For purposes of this section, "public auction" means an auction sale open*
36 *to the public, held in person at a physical location in the county and*

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

22 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 shall be confirmed, and the sheriff ordered to forthwith execute
25 to the purchasers at such sale a good and sufficient deed therefor.

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

1 judgment was rendered. Such deed shall be prima facie evidence of the
2 regularity of all proceedings prior to the date of filing the same for record.

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

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

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