

2023 Kansas Statutes

79-2804. Order of sale; publication notice; auctioneer may be employed; procedure for bidding in behalf of county; deed, execution and recordation. After the rendition of such judgment there shall be issued by the clerk of the district court to the sheriff of the county an execution or order of sale, which shall describe each tract, lot or piece of real estate mentioned and described in such judgment or decree, on which the lien has not been paid, with the amount of lien charged to each tract, lot or piece of real estate and the costs, charges and expenses of the proceedings and sale chargeable to each piece, lot or tract, in such amount as the court may order. If no order is made, then a sum equal to 5% of the amount set forth in the petition as the lien for taxes, charges, interest and penalties chargeable to each tract, lot or piece of real estate, with the name of the ascertained owner thereof, as disclosed by the judgment or decree, with the command to advertise and sell the real estate described therein. Such order of sale shall be delivered to the sheriff of the county, who shall thereupon cause notice of sale to be published once each week for three consecutive weeks in some newspaper of general circulation in the county, in accordance with the provisions of K.S.A. 64-101, and amendments thereto. The notice shall describe each tract, lot or piece of real estate to be sold and the lien for which it is to be sold, as determined by the judgment of the court and fix the date of sale, which shall not be less than 30 days from the date of the first publication. The notice shall state that the sale will be held at the front door of the courthouse in the county or shall identify some other location in the county where the sale will be held, as selected by the chief judge of the judicial district in which the county is located.

On the day fixed for the sale by such notice, the sheriff shall offer each such tract, lot or piece of real estate for sale, separately, and the same shall be sold at public auction for the highest and best bid obtainable therefor. The sheriff may employ an auctioneer for such reasonable compensation as may be determined by the court, to be allowed as a part of the costs and expenses of the proceedings and sale. The sheriff or such other person as may be authorized by the board of county commissioners, if directed by the county commissioners, may bid at such sale in the name of the county such amount as the county commissioners authorize. No bid in behalf of such county shall be accepted in excess of the amount of the judgment lien and interest thereon, as provided by law, plus the costs, charges and expenses of the proceedings and sale as set forth in the execution or order of sale. If the county is the successful bidder the costs, charges and expenses of the proceeding and sale set forth in the execution and order of sale shall be paid by the county to the clerk of the district court and charged to the county general fund. If such sale, for want of time, cannot be completed on the day fixed by the notice, it may be adjourned from day to day until completed.

The sheriff shall make return to the clerk and the same, as soon as practicable, shall be examined by the court, and if found by the court to be regular, it shall be confirmed, and the sheriff ordered to forthwith execute to the purchasers at such sale a good and sufficient deed therefor.

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

thereon, subsequent to the date upon which such judgment was rendered. Such deed shall be prima facie evidence of the regularity of all proceedings prior to the date of filing the same for record.

After the sale and confirmation thereof by the court, an execution shall issue, upon praecipe of the county attorney, county counselor or the purchaser, requiring the officer to deliver possession of the real estate, particularly describing it, to the parties entitled thereto, including the county. When the deed is executed to the county by the sheriff, it shall be filed for record forthwith in the office of the register of deeds.

Thereupon the assessed valuation of such real estate shall be eliminated from the assessment and tax rolls until such time as such real estate is sold as provided by K.S.A. 79-2804f, and amendments thereto.

History: L. 1901, ch. 392, § 4; R.S. 1923, 79-2804; L. 1941, ch. 375, § 20; L. 1943, ch. 302, § 4; L. 1945, ch. 362, § 4; L. 1968, ch. 398, § 7; L. 1972, ch. 371, § 1; L. 1978, ch. 399, § 1; L. 1989, ch. 294, § 3; L. 1999, ch. 57, § 72; July 1.