

SENATE BILL No. 12

By Special Committee on Assessment and Taxation

12-30

10 AN ACT concerning taxation; relating to collection of delinquent taxes;
11 tax liens; amending K.S.A. 2004 Supp. 79-3235 and 79-3617 and re-
12 pealing the existing sections.
13

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

15 Section 1. K.S.A. 2004 Supp. 79-3235 is hereby amended to read as
16 follows: 79-3235. If any tax imposed by this act or any portion of such tax
17 is not paid within 60 days after it becomes due, the secretary or the
18 secretary's designee shall issue a warrant under the secretary's or the
19 secretary's designee's hand and official seal, directed to the sheriff of any
20 county of the state, commanding the sheriff to levy upon and sell the real
21 and personal property of the taxpayer found within the sheriff's county
22 for the payment of the amount thereof, with the added penalties, interest
23 and the cost of executing the warrant and to return the warrant to the
24 secretary or the secretary's designee and pay to the secretary or the sec-
25 retary's designee the money collected by virtue of it not more than 60
26 days from the date of the warrant. The sheriff, within five days after the
27 receipt of the warrant, shall file with the clerk of the district court of the
28 county a copy thereof, and thereupon the clerk shall either enter in the
29 appearance docket the name of the taxpayer mentioned in the warrant,
30 the amount of the tax or portion of it, interest and penalties for which
31 the warrant is issued and the date such copy is filed and note the tax-
32 payer's name in the general index. No fee shall be charged for either
33 entry. The amount of such warrant so docketed shall thereupon ~~become~~
34 ~~a lien upon the title to and interest in the real property of the taxpayer~~
35 ~~against whom it is issued~~ *be a lien in favor of the state of Kansas, secretary*
36 *of revenue, upon all property and rights to property, whether real or*
37 *personal, belonging to such taxpayer. Such lien shall not be valid as*
38 *against any mortgagee, pledgee, purchaser or judgment creditor until no-*
39 *tice thereof has been filed by the secretary of revenue in the office of*
40 *register of deeds in any county in the state of Kansas, in which such*
41 *property is located, and when so filed shall be notice to all persons claim-*
42 *ing an interest in the property of the ~~employer~~ taxpayer or person against*
43 *whom filed. The register of deeds shall enter such notices in the financing*

1 *statement record and shall also record the same in full in the miscellaneous*
2 *record and index the same against the name of the delinquent ~~employer~~*
3 ***taxpayer.** The register of deeds shall accept, file and record such notice*
4 *without prepayment of any fee, but lawful fees shall be added to the*
5 *amount of such lien and collected when satisfaction is presented for entry.*
6 *Such lien shall be satisfied of record upon the presentation of a satisfaction*
7 *of judgment by the state of Kansas, secretary of revenue.* The sheriff shall
8 proceed in the same manner and with the same effect as prescribed by
9 law with respect to executions issued against property upon judgments of
10 a court of record and shall be entitled to the same fees for services to be
11 collected in the same manner.

12 The court in which the warrant is docketed shall have jurisdiction over
13 all subsequent proceedings as fully as though a judgment had been ren-
14 dered in the court. In the discretion of the secretary or the secretary's
15 designee a warrant of like terms, force and effect may be issued and
16 directed to any officer or employee of the secretary, and in the execution
17 thereof such officer or employee shall have all the powers conferred by
18 law upon sheriffs, and the subsequent proceedings thereunder shall be
19 the same as provided where the warrant is issued directly to the sheriff.
20 The taxpayer shall have the right to redeem the real estate within a period
21 of 18 months from the date of such sale. If a warrant is returned, unsat-
22 isfied in full, the secretary or the secretary's designee shall have the same
23 remedies to enforce the claim for taxes as if the state of Kansas had
24 recovered judgment against the taxpayer for the amount of the tax. No
25 law exempting any goods and chattels, lands and tenements from forced
26 sale under execution shall apply to a levy and sale under any such warrant
27 or upon any execution issued upon any judgment rendered in any action
28 for income taxes. Except as provided further, the secretary or the secre-
29 tary's designee shall have the right after a warrant has been returned
30 unsatisfied or satisfied only in part, to issue alias warrants until the full
31 amount of the tax is collected.

32 If execution is not issued within 10 years from the date of the docketing
33 of any such warrant, or if 10 years shall have intervened between the date
34 of the last execution issued on such warrant, and the time of issuing
35 another writ of execution thereon, such warrant shall become dormant,
36 and shall cease to operate as a lien on the real estate of the delinquent
37 taxpayer. Such dormant warrant may be revived in like manner as dor-
38 mant judgment under the code of civil procedure.

39 Sec. 2. K.S.A. 2004 Supp. 79-3617 is hereby amended to read as
40 follows: 79-3617. Whenever any taxpayer liable to pay any sales or com-
41 pensating tax, refuses or neglects to pay the tax, the amount, including
42 any interest or penalty, shall be collected in the following manner. The
43 secretary of revenue or the secretary's designee shall issue a warrant un-

1 der the hand of the secretary or the secretary's designee and official seal
2 directed to the sheriff of any county of the state commanding the sheriff
3 to levy upon and sell the real and personal property of the taxpayer found
4 within the sheriff's county to satisfy the tax, including penalty and interest,
5 and the cost of executing the warrant and to return such warrant to the
6 secretary or the secretary's designee and pay to the secretary or the sec-
7 retary's designee the money collected by virtue thereof not more than 90
8 days from the date of the warrant. The sheriff shall, within five days, after
9 the receipt of the warrant file with the clerk of the district court of the
10 county a copy thereof, and thereupon the clerk shall either enter in the
11 appearance docket the name of the taxpayer mentioned in the warrant,
12 the amount of the tax or portion of it, interest and penalties for which
13 the warrant is issued and the date such copy is filed and note the tax-
14 payer's name in the general index. No fee shall be charged for either such
15 entry. The amount of such warrant so docketed shall thereupon ~~become~~
16 ~~a lien upon the title to, and interest in, the real property of the taxpayer~~
17 ~~against whom it is issued~~ *be a lien in favor of the state of Kansas, secretary*
18 *of revenue, upon all property and rights to property, whether real or*
19 *personal, belonging to such taxpayer. Such lien shall not be valid as*
20 *against any mortgagee, pledgee, purchaser or judgment creditor until notice*
21 *thereof has been filed by the secretary of revenue in the office of*
22 *register of deeds in any county in the state of Kansas, in which such*
23 *property is located, and when so filed shall be notice to all persons claim-*
24 *ing an interest in the property of the ~~employer taxpayer~~ or person against*
25 *whom filed. The register of deeds shall enter such notices in the financing*
26 *statement record and shall also record the same in full in the miscellaneous*
27 *record and index the same against the name of the delinquent ~~employer~~*
28 ***taxpayer.** The register of deeds shall accept, file and record such notice*
29 *without prepayment of any fee, but lawful fees shall be added to the*
30 *amount of such lien and collected when satisfaction is presented for entry.*
31 *Such lien shall be satisfied of record upon the presentation of a satisfaction*
32 *of judgment by the state of Kansas, secretary of revenue.* The sheriff shall
33 proceed in the same manner and with the same effect as prescribed by
34 law with respect to executions issued against property upon judgments of
35 a court of record, and shall be entitled to the same fees for services.

36 The court in which the warrant is docketed shall have jurisdiction over
37 all subsequent proceedings as fully as though a judgment had been ren-
38 dered in the court. A warrant of similar terms, force and effect may be
39 issued by the secretary or the secretary's designee and directed to any
40 officer or employee of the secretary or the secretary's designee, and in
41 the execution thereof such officer or employee shall have all the powers
42 conferred by law upon sheriffs with respect to executions issued against
43 property upon judgments of a court of record and the subsequent pro-

1 ceedings thereunder shall be the same as provided where the warrant is
2 issued directly to the sheriff. The taxpayer shall have the right to redeem
3 the real estate within a period of 18 months from the date of such sale.
4 If a warrant is returned, unsatisfied in full, the secretary or the secretary's
5 designee shall have the same remedies to enforce the claim for taxes as
6 if the state of Kansas had recovered judgment against the taxpayer for
7 the amount of the tax. No law exempting any goods and chattels, land
8 and tenements from forced sale under execution shall apply to a levy and
9 sale under any of the warrants or upon any execution issued upon any
10 judgment rendered in any action for sales or compensating taxes. Except
11 as provided further, the secretary or the secretary's designee shall have
12 the right after a warrant has been returned unsatisfied, or satisfied only
13 in part, to issue alias warrants until the full amount of the tax is collected.
14 No costs incurred by the sheriff or the clerk of the court shall be charged
15 to the secretary or the secretary's designee.

16 If execution is not issued within 10 years from the date of the docketing
17 of any such warrant, or if 10 years shall have intervened between the date
18 of the last execution issued on such warrant, and the time of issuing
19 another writ of execution thereon, such warrant shall become dormant,
20 and shall cease to operate as a lien on the real estate of the delinquent
21 taxpayer. Such dormant warrant may be revived in like manner as dor-
22 mant judgments under the code of civil procedure.

23 Sec. 3. K.S.A. 2004 Supp. 79-3235 and 79-3617 are hereby repealed.

24 Sec. 4. This act shall take effect and be in force from and after its
25 publication in the statute book.