

[As Amended by House Committee of the Whole]

Session of 2006

HOUSE BILL No. 2839

By Committee on Governmental Organization and Elections

2-7

10 AN ACT concerning the residential landlord and tenant act; relating to  
11 eviction actions and disposition of possessions; **[relating to tenants**  
12 **who are victims of crimes;]** amending K.S.A. 58-2565 and repealing  
13 the existing section.  
14

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

16 Section 1. K.S.A. 58-2565 is hereby amended to read as follows: 58-  
17 2565. (a) If the rental agreement requires the tenant to give notice to the  
18 landlord of an anticipated extended absence in excess of seven days re-  
19 quired in K.S.A. 58-2558, and amendments thereto, and the tenant will-  
20 fully fails to do so, the landlord may recover actual damages from the  
21 tenant.

22 (b) During any absence of the tenant in excess of 30 days, the landlord  
23 may enter the dwelling unit at times reasonably necessary. If, after the  
24 tenant is 10 days in default for nonpayment of rent and has removed a  
25 substantial portion of such tenant's belongings from the dwelling unit,  
26 the landlord may assume that the tenant has abandoned the dwelling unit,  
27 unless the tenant has notified the landlord to the contrary.

28 (c) If the tenant abandons the dwelling unit, the landlord shall make  
29 reasonable efforts to rent it at a fair rental. If the landlord rents the  
30 dwelling unit for a term beginning prior to the expiration of the rental  
31 agreement, it is deemed to be terminated as of the date the new tenancy  
32 begins. The rental agreement is deemed to be terminated by the landlord  
33 as of the date the landlord has notice of the abandonment, if the landlord  
34 fails to use reasonable efforts to rent the dwelling unit at a fair rental or  
35 if the landlord accepts the abandonment as a surrender. If the tenancy is  
36 from month-to-month, or week-to-week, the term of the rental agree-  
37 ment for this purpose shall be deemed to be a month or a week, as the  
38 case may be.

39 (d) If the tenant abandons or surrenders possession of the dwelling  
40 unit and leaves household goods, furnishings, fixtures or any other per-  
41 sonal property in or at the dwelling unit ~~or if the tenant is removed from~~  
42 ~~the dwelling unit as a result of a forcible detainer action, pursuant to~~  
43 ~~K.S.A. 61-3801 through 61-3808, and amendments thereto, and fails to~~

1 ~~remove any household goods, furnishings, fixtures or any other personal~~  
2 ~~property in or at the dwelling unit after possession of the dwelling unit~~  
3 ~~is returned to the landlord,~~ the landlord may take possession of the prop-  
4 erty, store it at tenant's expense and sell or otherwise dispose of the same  
5 upon the expiration of 30 days after the landlord takes possession of the  
6 property, if at least 15 days prior to the sale or other disposition of such  
7 property the landlord shall publish once in a newspaper of general cir-  
8 culation in the county in which such dwelling unit is located a notice of  
9 the landlord's intention to sell or dispose of such property. Within seven  
10 days after publication, a copy of the published notice shall be mailed by  
11 the landlord to the tenant at the tenant's last known address. Such notice  
12 shall state the name of the tenant, a brief description of the property and  
13 the approximate date on which the landlord intends to sell or otherwise  
14 dispose of such property. If the foregoing requirements are met, the land-  
15 lord may sell or otherwise dispose of the property without liability to the  
16 tenant or to any other person who has or claims to have an interest in  
17 such property, except as to any secured creditor who gives notice of cred-  
18 itor's interest in such property to the landlord prior to the sale or dispo-  
19 sition thereof, if the landlord has no knowledge or notice that any person,  
20 other than the tenant, has or claims to have an interest in such property.  
21 During such ~~30~~ *thirty-day* period after the landlord takes possession of  
22 the property, and at any time prior to sale or other disposition thereof,  
23 the tenant may redeem the property upon payment to the landlord of the  
24 reasonable expenses incurred by the landlord of taking, holding and pre-  
25 paring the property for sale and of any amount due from the tenant to  
26 the landlord for rent or otherwise.

27 (e) Any proceeds from the sale or other disposition of the property  
28 as provided in subsection (d) shall be applied by the landlord in the fol-  
29 lowing order:

30 (1) To the reasonable expenses of taking, holding, preparing for sale  
31 or disposition, giving notice and selling or disposing thereof;

32 (2) to the satisfaction of any amount due from the tenant to the land-  
33 lord for rent or otherwise; and,

34 (3) the balance, if any, may be retained by the landlord, without lia-  
35 bility to the tenant or to any other person, other than a secured creditor  
36 who gave notice of creditors interest as provided in subsection (d), for  
37 any profit made as a result of a sale or other disposition of such property.

38 (f) Any person who purchases or otherwise receives the property pur-  
39 suant to a sale or other disposition of the property as provided under  
40 subsection (d) of this section, without knowledge that such sale or dis-  
41 position is in violation of the ownership rights or security interest of a  
42 third party in the property, takes title to the property free and clear of  
43 any right, title, claim or interest of the tenant or such third party in the

1 property.

2 (g) *If a landlord files an eviction action, pursuant to K.S.A. 61-3801*  
3 *through 61-3808, and amendments thereto, the landlord shall have, at the*  
4 *landlord's sole discretion:*

5 (1) *The right to remove a tenant's possessions and set out such ten-*  
6 *ant's possessions at the curb of the landlord's property when the sheriff*  
7 *or other law enforcement officer restores possession of the landlord's prop-*  
8 *erty to the landlord; or*

9 (2) *the right to retain and store a tenant's possessions as provided for*  
10 *in subsection (d).*

11 *If a landlord uses an eviction action and sets out the tenant's possessions*  
12 *at the curb as provided in paragraph (1), the landlord shall have no*  
13 *liability for damages to such tenant's possessions.*

14 **[New Sec. 2. (a) If a tenant is the victim of any crime set out**  
15 **in article 35 of chapter 21 of the Kansas Statutes Annotated, which**  
16 **crime occurred on the premises being rented, the tenant may ter-**  
17 **minate a rental agreement. Unless the rental agreement is a week-**  
18 **to-week tenancy, the tenant shall give written notice to the land-**  
19 **lord stating that the tenancy shall terminate upon the periodic**  
20 **rent-paying date not less than 30 days after the receipt of the no-**  
21 **tice. A copy of the police report shall accompany the termination**  
22 **notice.**

23 **[(b) If the rental agreement is terminated, the landlord shall**  
24 **return that portion of the security deposit recoverable by the ten-**  
25 **ant under K.S.A. 58-2550, and amendments thereto.**

26 **[(c) This section shall be a part of and supplemental to the res-**  
27 **idential landlord and tenant act.]**

28 Sec. 2 [3]. K.S.A. 58-2565 is hereby repealed.

29 Sec. 3 [4]. This act shall take effect and be in force from and after  
30 its publication in the statute book.