

SENATE BILL No. 236

By Committee on Judiciary

2-6

9 AN ACT concerning interest on judgments; amending K.S.A. 16-204, 44-
10 512b, 44-5,120 and 60-2414 and K.S.A. 2008 Supp. 44-5,125 and re-
11 pealing the existing sections.
12

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

14 Section 1. K.S.A. 16-204 is hereby amended to read as follows: 16-
15 204. Except as otherwise provided in accordance with law, and including
16 any judgment rendered on or after July 1, 1973, against the state or any
17 agency or political subdivision of the state:

18 (a) Any judgment rendered by a court of this state before July 1, 1980,
19 shall bear interest as follows:

20 (1) On and after the day on which the judgment is rendered and
21 before July 1, 1980, at the rate of 8% per annum;

22 (2) on and after July 1, 1980, and before July 1, 1982, at the rate of
23 12% per annum;

24 (3) on and after July 1, 1982, and before July 1, 1986, at the rate of
25 15% per annum; ~~and~~

26 (4) on and after July 1, 1986, *and before July 1, 2009*, at the rate
27 provided by subsection (e); *and*

28 (5) *on and after July 1, 2009, at the rate provided by subsection (f).*

29 (b) Any judgment rendered by a court of this state on or after July 1,
30 1980, and before July 1, 1982, shall bear interest as follows:

31 (1) On and after the day on which the judgment is rendered and
32 before July 1, 1982, at the rate of 12% per annum;

33 (2) on and after July 1, 1982, and before July 1, 1986, at the rate of
34 15% per annum; ~~and~~

35 (3) on and after July 1, 1986, *and before July 1, 2009*, at the rate
36 provided by subsection (e); *and*

37 (4) *on and after July 1, 2009, at the rate provided by subsection (f).*

38 (c) Any judgment rendered by a court of this state on or after July 1,
39 1982, and before July 1, 1986, shall bear interest as follows:

40 (1) On and after the day on which the judgment is rendered and
41 before July 1, 1986, at the rate of 15% per annum; ~~and~~

42 (2) on and after July 1, 1986, *and before July 1, 2009*, at the rate
43 provided by subsection (e); *and*

- 1 (3) *on and after July 1, 2009, at the rate provided by subsection (f).*
- 2 (d) Any judgment rendered by a court of this state on or after July 1,
3 1986, *and before July 1, 2009*, shall bear interest on and after the day on
4 which the judgment is rendered at the rate provided by subsection (e).
- 5 (e) (1) Except as otherwise provided in this subsection, on and after
6 July 1, 1996, *and before July 1, 2009*, the rate of interest on judgments
7 rendered by courts of this state pursuant to the code of civil procedure
8 shall be at a rate per annum: (A) Which shall change effective July 1 of
9 each year for both judgments rendered prior to such July 1 and judgments
10 rendered during the twelve-month period beginning such July 1; and (B)
11 which is equal to an amount that is four percentage points above the
12 discount rate (the charge on loans to depository institutions by the New
13 York federal reserve bank as reported in the money rates column of the
14 Wall Street Journal) as of July 1 preceding the date the judgment was
15 rendered. The secretary of state shall publish notice of the interest rate
16 provided by this subsection (e) (1) not later than the second issue of the
17 Kansas register published in July of each year.
- 18 (2) On and after ~~the effective date of this act~~ *July 1, 1996, and before*
19 *July 1, 2009*, the rate of interest on judgments rendered by courts of this
20 state pursuant to the code of civil procedure for limited actions shall be
21 12% per annum.
- 22 (3) On and after July 1, 1996, *and before July 1, 2009*, it shall be
23 presumed that applying interest at the rate of 10% per annum will result
24 in the correct total of interest accrued on any judgments, regardless of
25 when the judgments accrued, arising from a person's duty to support
26 another person. The burden of proving that a different amount is the
27 correct total shall lie with any person contesting the presumed amount.
- 28 (f) *On and after July 1, 2009, the rate of interest on judgments ren-*
29 *dered by courts of this state pursuant to the code of civil procedure shall*
30 *be at a rate per annum: (A) Which shall change effective July 1 of each*
31 *year for both judgments rendered prior to such July 1 and judgments*
32 *rendered during the twelve-month period beginning such July 1; and (B)*
33 *which is equal to an amount that is four percentage points above the*
34 *discount rate (the charge on loans to depository institutions by the New*
35 *York federal reserve bank as reported in the money rates column of the*
36 *Wall Street Journal) as of July 1 preceding the date the judgment was*
37 *rendered. The secretary of state shall publish notice of the interest rate*
38 *provided by this subsection not later than the second issue of the Kansas*
39 *register published in July of each year.*
- 40 Sec. 2. K.S.A. 44-512b is hereby amended to read as follows: 44-
41 512b. (a) Whenever the administrative law judge or board finds, upon a
42 hearing conducted pursuant to K.S.A. 44-523 and amendments thereto
43 or upon review or appeal of an award entered in such a hearing, that

1 there was not just cause or excuse for the failure of the employer or
2 insurance carrier to pay, prior to an award, the compensation claimed to
3 the person entitled thereto, the employee shall be entitled to interest on
4 the amount of the disability compensation found to be due and unpaid
5 at the rate of interest prescribed pursuant to ~~subsection (c)(1) of K.S.A.~~
6 16-204 and amendments thereto. Such interest shall be assessed against
7 the employer or insurance carrier liable for the compensation and shall
8 accrue from the date such compensation was due.

9 (b) Interest assessed pursuant to this section shall be considered a
10 penalty and shall not be considered a loss or a loss adjustment expense
11 by an insurance carrier in the promulgation of rates for workers compen-
12 sation insurance.

13 (c) This section shall be part of and supplemental to the workers
14 compensation act.

15 Sec. 3. K.S.A. 44-5,120 is hereby amended to read as follows: 44-
16 5,120. (a) The director of workers compensation is hereby authorized and
17 directed to establish a system for monitoring, reporting and investigating
18 suspected fraud or abuse by any persons who are not licensed or regulated
19 by the commissioner of insurance in connection with securing the liability
20 of an employer under the workers compensation act or in connection
21 with claims or benefits thereunder. The commissioner of insurance is
22 hereby authorized and directed to establish a system for monitoring, re-
23 porting and investigating suspected fraud or abuse by any persons who
24 are licensed or regulated by the commissioner of insurance in connection
25 with securing the liability of an employer under the workers compensa-
26 tion act or in connection with claims thereunder.

27 (b) This section applies to:

28 (1) Persons claiming benefits under the workers compensation act;
29 (2) employers subject to the requirements of the workers compen-
30 sation act;

31 (3) insurance companies including group-funded self-insurance plans
32 covering Kansas employers and employees;

33 (4) any person, corporation, business, health care facility that is or-
34 ganized either for profit or not-for-profit and that renders medical care,
35 treatment or services in accordance with the provisions of the workers
36 compensation act to an injured employee who is covered thereunder; and

37 (5) attorneys and other representatives of employers, employees, in-
38 surers or other entities that are subject to the workers compensation act.

39 (c) The commissioner of insurance may examine the workers com-
40 pensation records of insurance companies or self-insurers as necessary to
41 ensure compliance with the workers compensation act. Each insurance
42 company providing workers compensation insurance in Kansas, the com-
43 pany's agents, and those entities that the company has contracted to pro-

- 1 vide review services or to monitor services and practices under the work-
2 ers compensation act shall cooperate with the commissioner of insurance,
3 and shall make available to the commissioner any records or other nec-
4 essary information requested by the commissioner. The commissioner of
5 insurance shall conduct an examination authorized by this subsection in
6 accordance with the provisions of K.S.A. 40-222 and 40-223 and amend-
7 ments thereto.
- 8 (d) Fraudulent or abusive acts or practices for purposes of the work-
9 ers compensation act include, willfully, knowingly or intentionally:
- 10 (1) Collecting from an employee, through a deduction from wages or
11 a subsequent fee, any premium or other fee paid by the employer to
12 obtain workers compensation insurance coverage;
- 13 (2) misrepresenting to an insurance company or the insurance de-
14 partment, the classification of employees of an employer, or the location,
15 number of employees, or true identity of the employer with the intent to
16 lessen or reduce the premium otherwise chargeable for workers com-
17 pensation insurance coverage;
- 18 (3) lending money to the claimant during the pendency of the work-
19 ers compensation claim by an attorney representing the claimant, but this
20 provision shall not prohibit the attorney from assisting the claimant in
21 obtaining financial assistance from another source, except that (A) the
22 attorney shall not have a financial interest, directly or indirectly, in the
23 source from which the loan or other financial assistance is secured and
24 (B) the attorney shall not be personally liable in any way for the credit
25 extended to the claimant;
- 26 (4) obtaining, denying or attempting to obtain or deny payments of
27 workers compensation benefits for any person by:
- 28 (A) Making a false or misleading statement;
- 29 (B) misrepresenting or concealing a material fact;
- 30 (C) fabricating, altering, concealing or destroying a document; or
- 31 (D) conspiring to commit an act specified by clauses (A), (B) or (C)
32 of this subsection (d)(4);
- 33 (5) bringing, prosecuting or defending an action for compensation
34 under the workers compensation act or requesting initiation of an ad-
35 ministrative violation proceeding that, in either case, has no basis in fact
36 or is not warranted by existing law or a good faith argument for the ex-
37 tension, modification or reversal of existing law;
- 38 (6) breaching a provision of an agreement approved by the director;
- 39 (7) withholding amounts not authorized by the director from the em-
40 ployee's or legal beneficiary's weekly compensation payment or from ad-
41 vances from any such payment;
- 42 (8) entering into a settlement or agreement without the knowledge
43 and consent of the employee or legal beneficiary;

- 1 (9) taking a fee or withholding expenses in excess of the amounts
2 authorized by the director;
 - 3 (10) refusing or failing to make prompt delivery to the employee or
4 legal beneficiary of funds belonging to the employee or legal beneficiary
5 as a result of a settlement, agreement, order or award;
 - 6 (11) misrepresenting the provisions of the workers compensation act
7 to an employee, an employer, a health care provider or a legal beneficiary;
 - 8 (12) instructing employers not to file required documents with the
9 director;
 - 10 (13) instructing or encouraging employers to violate the employee's
11 right to medical benefits under the workers compensation act;
 - 12 (14) failing to tender promptly full death benefits if a clear and le-
13 gitimate dispute does not exist as to the liability of the insurance company,
14 self-insured employer or group-funded self-insurance plan;
 - 15 (15) failing to confirm medical compensation benefits coverage to any
16 person or facility providing medical treatment to a claimant if a clear and
17 legitimate dispute does not exist as to the liability of the insurance carrier,
18 self-insured employer or group-funded self-insurance plan;
 - 19 (16) failing to initiate or reinstate compensation when due if a clear
20 and legitimate dispute does not exist as to the liability of the insurance
21 company, self-insured employer or group-funded self-insurance plan;
 - 22 (17) misrepresenting the reason for not paying compensation or ter-
23 minating or reducing the payment of compensation;
 - 24 (18) refusing to pay compensation as and when the compensation is
25 due;
 - 26 (19) refusing to pay any order awarding compensation;
 - 27 (20) refusing to timely file required reports or records under the
28 workers compensation act, except as provided in K.S.A. 44-557 and
29 amendments thereto; and
 - 30 (21) for a health care provider to submit a charge for health care that
31 was not furnished.
- 32 (e) Whenever the director or the commissioner of insurance has rea-
33 son to believe that any person has engaged or is engaging in any fraud-
34 ulent or abusive act or practice in connection with the conduct of Kansas
35 workers compensation insurance, claims, benefits or services in this state,
36 that such fraudulent or abusive act or practice is not subject to possible
37 proceedings under K.S.A. 40-2401 through 40-2421 and amendments
38 thereto by the commissioner of insurance, and that a proceeding by the
39 director or the commissioner of insurance, in the case of any person
40 licensed or regulated by the commissioner, with respect thereto would
41 be in the interest of the public, the director or the commissioner of in-
42 surance, in the case of any person licensed or regulated by the commis-
43 sioner, shall issue and serve upon such person a summary order or state-

1 ment of the charges with respect thereto and shall conduct a hearing
2 thereon in accordance with the provisions of the Kansas administrative
3 procedure act. Complaints filed with the director or the commissioner of
4 insurance may be dismissed by the director or the commissioner of in-
5 surance on their own initiative, and shall be dismissed upon the written
6 request of the complainant, if the director or commissioner of insurance
7 has not conducted a hearing or taken other administrative action dis-
8 missing the complaint within 180 days of the filing of the complaint. Any
9 such dismissal of a complaint in accordance with this section shall con-
10 stitute final action by the director or commissioner of insurance which
11 shall be deemed to exhaust all administrative remedies under K.S.A. 44-
12 5,120 and amendments thereto for the purpose of allowing subsequent
13 filing of the matter in court by the complainant. Dismissal of a complaint
14 in accordance with this section shall not be subject to appeal or judicial
15 review.

16 (f) If, after such hearing, the director or the commissioner of insur-
17 ance, in the case of any person licensed or regulated by the commissioner,
18 determines that the person charged has engaged in any fraudulent or
19 abusive act or practice, any costs incurred as a result of conducting any
20 administrative hearing authorized under the provisions of this section may
21 be assessed against the person or persons found to have engaged in such
22 acts. In an appropriate case to reimburse costs incurred, such costs may
23 be awarded to a complainant. As used in this subsection, "costs" include
24 witness fees, mileage allowances, any costs associated with reproduction
25 of documents which become a part of the hearing record and the expense
26 of making a record of the hearing.

27 (g) If, after such hearing, the director or the commissioner of insur-
28 ance, in the case of any person licensed or regulated by the commissioner,
29 determines that the person or persons charged have engaged in a fraud-
30 ulent or abusive act or practice the director or the commissioner of in-
31 surance, in the case of any person licensed or regulated by the commis-
32 sioner, shall issue an order or summary order requiring such person to
33 cease and desist from engaging in such act or practice and, in the exercise
34 of discretion, may order any one or more of the following:

35 (1) Payment of a monetary penalty of not more than \$2,000 for each
36 and every act constituting the fraudulent or abusive act or practice, but
37 not exceeding an aggregate penalty of \$20,000 in a one-year period;

38 (2) redress of the injury by requiring the refund of any premiums
39 paid by and requiring the payment of any moneys withheld from, any
40 employee, employer, insurance company or other person or entity ad-
41 versely affected by the act constituting a fraudulent or abusive act or
42 practice;

43 (3) repayment of an amount equal to the total amount that the person

1 received as benefits or any other payment under the workers compen-
2 sation act and any amount that the person otherwise benefited as a result
3 of an act constituting a fraudulent or abusive act or practice, with interest
4 thereon determined so that such total amount, plus any accrued interest
5 thereon, bears interest, from the date of the payment of benefits or other
6 such payment or the date the person was benefited, at the current rate
7 of interest prescribed by law for judgments under ~~subsection (c)(1) of~~
8 K.S.A. 16-204 and amendments thereto per month or fraction of a month
9 until repayment.

10 (h) After the expiration of the time allowed for filing a petition for
11 review of an order issued under this section, if no such petition has been
12 duly filed within such time, the director at any time, after notice and
13 opportunity for hearing in accordance with the provisions of the Kansas
14 administrative procedure act, may reopen and alter, modify or set aside,
15 in whole or in part, any order issued under this section, whenever in the
16 director's opinion conditions of fact or of law have so changed as to re-
17 quire such action or if the public interest so requires.

18 (i) Upon the order of the director or the commissioner of insurance,
19 in the case of any person licensed or regulated by the commissioner, after
20 notice and hearing in accordance with the provisions of the Kansas ad-
21 ministrative procedure act, any person who violates a cease and desist
22 order of the director or the commissioner of insurance, in the case of any
23 person licensed or regulated by the commissioner, issued under this sec-
24 tion may be subject, at the discretion of the director or the commissioner
25 of insurance, in the case of any person licensed or regulated by the com-
26 missioner, to a monetary penalty of not more than \$10,000 for each and
27 every act or violation, but not exceeding an aggregate penalty of \$50,000
28 for any six-month period in addition to any penalty imposed pursuant to
29 subsection (g).

30 (j) Any civil fine imposed under this section shall be subject to review
31 in accordance with the act for judicial review and civil enforcement of
32 agency actions in the district court in Shawnee county.

33 (k) All moneys received under this section for costs assessed, which
34 are not awarded to a complainant, or monetary penalties imposed shall
35 be deposited in the state treasury and credited to the workers compen-
36 sation fee fund.

37 (l) Any person who refers a possibly fraudulent or abusive practice to
38 any state or governmental investigative agency, shall be immune from
39 civil or criminal liability arising from the supply or release of such referral
40 as long as such referral is made in good faith with the belief that a fraud-
41 ulent or abusive practice has, is or will occur and said referral is not made
42 by the person or persons who are in violation of the workers compensation
43 act in order to avoid criminal prosecution or administrative hearings.

1 Sec. 4. K.S.A. 2008 Supp. 44-5,125 is hereby amended to read as
2 follows: 44-5,125. (a) (1) Any person who obtains or attempts to obtain
3 workers compensation benefits for such person or another, or who denies
4 or attempts to deny the obligation to make any payment of workers com-
5 pensation benefits by knowingly or intentionally: (A) Making a false or
6 misleading statement, (B) misrepresenting or concealing a material fact,
7 (C) fabricating, altering, concealing or destroying a document; (D) re-
8 ceiving temporary total disability benefits or permanent total disability
9 benefits to which they are not entitled, while employed, or (E) conspiring
10 with another person to commit any act described by paragraph (1) of this
11 subsection (a), shall be guilty of:

12 (i) A class A nonperson misdemeanor, if the amount received as a
13 benefit or other payment under the workers compensation act as a result
14 of such act or the amount that the person otherwise benefited monetarily
15 as a result of a violation of this subsection (a) is \$1,000 or less;

16 (ii) a severity level 9, nonperson felony, if such amount is more than
17 \$1,000 but less than \$25,000;

18 (iii) a severity level 7, nonperson felony, if the amount is more than
19 \$25,000, but less than \$50,000;

20 (iv) a severity level 6, nonperson felony if the amount is more than
21 \$50,000, but less than \$100,000; or

22 (v) a severity level 5, nonperson felony if the amount is more than
23 \$100,000.

24 (b) Any person who knowingly and intentionally presents a false cer-
25 tificate of insurance that purports that the presenter is insured under the
26 workers compensation act, shall be guilty of a level 8, nonperson felony.

27 (c) A health care provider under the workers compensation act who
28 knowingly and intentionally submits a charge for health care that was not
29 furnished, shall be guilty of a level 9, nonperson felony.

30 (d) Any person who obtains or attempts to obtain a more favorable
31 workers compensation insurance premium rate than that to which the
32 person is entitled, who prevents, reduces, avoids or attempts to prevent,
33 reduce or avoid the payment of any compensation under the workers
34 compensation act, or who fails to communicate a settlement offer or sim-
35 ilar information to a claimant under the workers compensation act, by, in
36 any such case knowingly or intentionally: (1) Making a false or misleading
37 statement; (2) misrepresenting or concealing a material fact; (3) fabricat-
38 ing, concealing or destroying a document; or (4) conspiring with another
39 person or persons to commit the acts described in clause (1), (2) or (3)
40 of this subsection shall be guilty of a level 9, nonperson felony.

41 (e) Any person who has received any amount of money as a benefit
42 or other payment under the workers compensation act as a result of a
43 violation of subsection (a) or (c) and any person who has otherwise ben-

1 efit ed monetarily as a result of a violation of subsection (a) or (c) shall be
2 liable to repay an amount equal to the amount so received by such person
3 or the amount by which such person has benefited monetarily, with in-
4 terest thereon. Any such amount, plus any accrued interest thereon, shall
5 bear interest at the current rate of interest prescribed by law for judg-
6 ments under ~~subsection (c)(1) of~~ K.S.A. 16-204 and amendments thereto
7 per month or fraction of a month until repayment of such amount, plus
8 any accrued interest thereon. The interest shall accrue from the date of
9 overpayment or erroneous payment of any such amount or the date such
10 person benefited monetarily.

11 (f) Any person aggrieved by a violation of subsection (a), (b), (c) or
12 (d) shall have a cause of action against any other person to recover any
13 amounts of money erroneously paid as benefits or any other amounts of
14 money paid under the workers compensation act, and to seek relief for
15 other monetary damages, for which liability has accrued under this section
16 against such other person. Relief under this subsection is to be predicated
17 upon exhaustion of administrative remedies available in K.S.A. 44-5,120
18 and amendments thereto.

19 (g) Nothing in this section shall prohibit an employer from exercising
20 a right to reimbursement under K.S.A. 44-534a, 44-556 or 44-569a and
21 amendments thereto.

22 (h) Prosecution for any crime under this section shall be commenced
23 within five years subject to the time period set forth in subsection (8) of
24 K.S.A. 21-3106 and amendments thereto.

25 Sec. 5. K.S.A. 60-2414 is hereby amended to read as follows: 60-
26 2414. (a) *Right of redemption by defendant owner.* Except as stated in
27 subsection (m) and as otherwise provided by law, the defendant owner
28 may redeem any real property sold under execution, special execution or
29 order of sale, at any time within 12 months from the day of sale, for the
30 amount paid by the current holder of the certificate of purchase, including
31 expenses incurred by the holder of the certificate of purchase in accord-
32 ance with subsection (d), together with interest at the rate provided for
33 in ~~subsection (c)(1) of~~ K.S.A. 16-204, and amendments thereto, costs and
34 taxes to the date of redemption. The defendant owner in the meantime
35 shall be entitled to the possession of the property. If the court finds after
36 hearing, either before or after sale, upon not less than 21 days' notice to
37 all parties, that the property has been abandoned, or is not occupied in
38 good faith, the period of redemption for the defendant owner may be
39 shortened or extinguished by the court. The right of redemption shall not
40 apply to oil and gas leaseholds. Except for mortgages covering agricultural
41 lands or single or two-family dwellings owned by or held in trust for
42 natural persons, the mortgagor may agree in the mortgage instrument to
43 a shorter period of redemption than 12 months or may wholly waive the

1 period of redemption.

2 (b) *Redemption by lien creditor.* Except as provided in subsection
3 (m), for the first three months of the redemption period, if any, the right
4 of the defendant owner or successors and assigns to redeem is exclusive.
5 If no redemption is made by the defendant owner during the time in
6 which the defendant owner has the exclusive right to redeem, any creditor
7 referred to in subsection (c) may redeem the property during the balance
8 of the redemption period remaining. If the defendant owner has waived
9 the right of redemption, a creditor shall have a right to redeem the prop-
10 erty for a period of three months from the date of the judicial sale. If the
11 defendant owner has agreed to a period of redemption of three months
12 or less, a creditor shall have a right to redeem for a period of three months
13 from the date of expiration of the defendant owner's redemption period.
14 If the court shortens or extinguishes the period of redemption because
15 of abandonment or lack of good faith occupation as provided in subsection
16 (a), the court shall specify in the order a time not to exceed three months
17 during which a creditor may redeem. The first creditor redeeming must
18 pay only the amount of the successful sale bid, the expenses incurred by
19 the holder of the certificate in accordance with subsection (d), together
20 with interest at the rate provided for in ~~subsection (c)(1) of~~ K.S.A. 16-
21 204, and amendments thereto, costs and taxes to the date of redemption.
22 After redemption by a creditor, no further redemption shall be allowed
23 except by the defendant owner or such owner's successors and assigns. If
24 a creditor redeems during the period of redemption for the defendant
25 owner, the defendant owner shall have the balance of such period, but
26 in no event less than 10 days from the filing of the affidavit required in
27 subsection (f), to redeem from the creditor. When the defendant owner
28 or such owner's successors and assigns redeem subsequent to redemption
29 by a creditor, the defendant owner or such owner's successors and assigns
30 shall pay an amount equal to the redemption amount paid by such cred-
31 itor, plus the amount required by subsection (f), and expenses incurred
32 by the creditor in accordance with subsection (d), together with interest
33 at the rate provided for in ~~subsection (c)(1) of~~ K.S.A. 16-204, and amend-
34 ments thereto, costs and taxes to the date of redemption.

35 (c) *Creditors who may redeem.* Any creditor whose claim is or be-
36 comes a lien prior to the expiration of the time allowed by law for the
37 redemption by creditors may redeem. A mortgagee may redeem upon
38 the terms prescribed by this section before or after the debt secured by
39 the mortgage falls due.

40 (d) *Terms of redemption; rights of parties.* During the period allowed
41 for redemption, the holder of the certificate of purchase or the creditor
42 who has redeemed may pay the taxes on the lands sold, insurance pre-
43 miums on the improvements thereon, other sums necessary to prevent

1 waste, and interest or sums due, upon any prior lien or encumbrance on
2 the real property. Upon the redemption of the property, the holder of
3 the certificate or the creditor who has redeemed shall be entitled to re-
4 payment of all sums thus paid, together with interest at the rate provided
5 for in ~~subsection (c)(1) of~~ K.S.A. 16-204, and amendments thereto. All
6 expenses incurred by the holder of the certificate or the creditor who has
7 redeemed shall be as shown by receipts or vouchers filed in the office of
8 the clerk of the district court.

9 (e) *Effect of failure of debtor to redeem; deficiency.* If the defendant
10 owner or such owner's successors or assigns fail to redeem as provided
11 in this section, the holder of the certificate of purchase or the creditor
12 who has redeemed prior to the expiration of the redemption period will
13 hold the property absolutely. If it is held by a redeeming creditor, the
14 lien and the claim out of which it arose will be held to be extinguished,
15 unless the redeeming creditor is unwilling to hold the property and credit
16 the defendant owner with the full amount of the redeeming creditor's
17 lien and, at the time of redemption, files with the clerk of the district
18 court a statement of the amount that the redeeming creditor is willing to
19 credit on the claim. If the redeeming creditor files such a statement and
20 the defendant owner or such owner's successors and assigns fail to re-
21 deem, the creditor's claim shall be extinguished by the amount in the
22 statement. The sheriff, at the end of the redemption period, shall execute
23 a deed to the current owner of the certificate of purchase or the creditor
24 who has redeemed prior to the expiration of the redemption period.

25 (f) *Mode of redemption.* The party redeeming shall pay the money
26 into the office of the clerk of the district court for the use of the persons
27 entitled to it. The clerk shall give a receipt for the money, stating the
28 purpose for which it is paid. The clerk shall also enter the transaction on
29 the appearance docket of the case, showing the amount paid. A redeem-
30 ing creditor, or agent of the creditor, shall also file an affidavit stating as
31 nearly as practicable the amount still unpaid due on the claim of that
32 creditor and any lesser amount the creditor is willing to credit on the
33 claim in accordance with subsection (e). The creditor's claim, or such
34 lesser amount as the creditor is willing to credit on the claim in accord-
35 ance with subsection (e), shall be added to the redemption amount to be
36 paid by the defendant owner or such owner's successors and assigns.

37 (g) *Redemption of property sold in parcels, or undivided portions.*
38 Whenever the property has been sold in parcels, any distinct portion of
39 that property may be redeemed by itself. If a creditor has redeemed, the
40 amount of the creditor's claim or such lesser amount as the creditor is
41 willing to credit on the claim as stated in the affidavit under subsection
42 (f) shall be added to each parcel sold pro rata in proportion to the amount
43 for which it was originally sold. When the interests of several tenants in

1 common have been sold on execution the undivided portion of any or
2 either of them may be redeemed separately.

3 (h) *Transfer of right of redemption.* The rights of the defendant
4 owner in relation to redemption may be assigned or transferred, and the
5 assignee or transferee shall have the same right of redemption as the
6 defendant owner. The assigned or transferred right of redemption shall
7 not be subject to levy or sale on execution.

8 (i) *Holder of legal title.* The holder of the legal title at the time of
9 issuance of execution or order of sale shall have the same right of re-
10 demption upon the same terms and conditions as the defendant in exe-
11 cution and shall be entitled to the possession of the property the same as
12 the defendant in execution.

13 (j) *Injury or waste after sale.* After the sheriff makes the deed to the
14 purchaser or party entitled to a deed under sale as provided in this section,
15 the purchaser or party may assert a claim for damages against any person
16 committing or permitting any injury or waste upon the property pur-
17 chased after the sale and before possession is delivered under the
18 conveyance.

19 (k) *Second sale not permitted.* Real estate once sold upon order of
20 sale, special execution or general execution shall not again be liable for
21 sale for any balance due upon the judgment or decree under which it is
22 sold, or any judgment or lien inferior thereto, including unadjudicated
23 junior liens filed after the petition is filed in the district court to foreclose
24 the senior lien against the real estate.

25 (l) *Injunction or receiver to protect property.* The holder of the cer-
26 tificate of purchase shall be entitled to prevent any waste or destruction
27 of the premises purchased. For that purpose the court, on proper show-
28 ing, may issue an injunction or, when required to protect the premises
29 against waste, appoint a receiver who shall hold the premises until the
30 purchaser is entitled to a deed. The receiver may rent, control and man-
31 age the premises but the income during that time, except the fees and
32 expenses of the receiver and the amount that is necessary to keep up
33 repairs, prevent waste and pay real estate taxes and insurance premiums,
34 shall go to the person who otherwise would be entitled to possession
35 during the period of redemption.

36 (m) *Owners reduced redemption period.* In the event a default occurs
37 in the conditions of the mortgage or instrument of the most senior lien
38 foreclosed before $\frac{1}{3}$ of the original indebtedness secured by the mortgage
39 or lien has been paid, the court shall order a redemption period of three
40 months. If, after proper showing, the court finds that the total outstanding
41 amount of all mortgages or liens is less than $\frac{1}{3}$ of the market value of the
42 property, the court shall order a redemption period of 12 months. If the
43 court finds after a hearing with not less than 21 days' notice to all parties,

1 that the defendant owner has involuntarily lost such owner's primary
2 source of income after the date of the foreclosure sale and prior to ex-
3 piration of a three-month period of redemption, the court may extend
4 the three-month period of redemption an additional three months. If the
5 court orders a redemption period of six months or less, the right of the
6 defendant owner or successors and assigns to redeem is exclusive for the
7 first two months of the redemption period. This subsection shall not apply
8 in the event redemption rights have been shortened, waived or termi-
9 nated pursuant to subsection (a).

10 Sec. 6. K.S.A. 16-204, 44-512b, 44-5,120 and 60-2414 and K.S.A.
11 2008 Supp. 44-5,125 are hereby repealed.

12 Sec. 7. This act shall take effect and be in force from and after its
13 publication in the statute book.