

HOUSE BILL No. 2736

By Committee on Taxation

3-11

9 AN ACT concerning delinquent taxes; providing for the sale of
10 receivables.

11

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

13 Section 1. (a) As used in this section:

14 (1) "Taxing subdivision" means any county, city, township, taxing dis-
15 trict, political subdivision or any other state or local government entity
16 that is authorized to levy taxes on real property.

17 (2) "Property tax receivable" means the right to receive revenue from
18 a tax, assessment, or other charge on real property that has become de-
19 linquent in whole or in part, including interest. The term "property tax
20 receivable" shall not include penalties on such taxes, assessments or other
21 charges accrued pursuant to law.

22 (3) "Tax sale" means a sale conducted pursuant to the provisions of
23 K.S.A. 79-2804, and amendments thereto.

24 (b) Any taxing subdivision by resolution of its governing body may
25 elect to sell its property tax receivables to public or private parties. The
26 county treasurer must certify to the governing body the treasurer's con-
27 sent to administer the program, except that upon a two-thirds vote of the
28 governing body of the taxing subdivision, this certification shall not be
29 necessary. All interest and penalties imposed by law shall continue to
30 accrue on the unpaid original amount of the tax in the same manner as
31 if such property tax receivables have not been sold. Sales of property tax
32 receivables may be by individual parcel or in bulk. The taxing subdivision
33 may establish criteria for eligible purchasers of property tax receivables
34 and may make such sales pursuant to negotiated sale for such prices as
35 the taxing subdivision determines to be in the best interest of the taxing
36 subdivision.

37 (c) A taxing subdivision may enter into purchase and sale agreements
38 for the sale of property tax receivables, which purchase and sale agree-
39 ments may, consistent with the provisions of this section, contain such
40 terms, covenants, representations and warranties as, in the judgment of
41 the taxing subdivision, shall be necessary or desirable. The agreement
42 may require the taxing subdivision to repurchase a tax receivable, or to
43 substitute another tax receivable of equivalent value, for prices and under

1 conditions specified in the agreement. Upon execution of a purchase and
2 sale agreement for the sale of property tax receivables by the appropriate
3 officer of the taxing subdivision, a taxing subdivision may enter into an
4 agreement with the county treasurer to act as the taxing subdivision's
5 agent in connection with the administration of such purchase and sale
6 agreements and of the related property tax receivables.

7 (d) After entering into an agreement for the sale of a property tax
8 receivable the taxing subdivision shall give notice to the delinquent tax-
9 payer of the sale of the property tax receivable. Such notice shall include
10 the amount of the delinquent tax debt and the current interest rate, as
11 well as language which clearly indicates who the taxpayer is to remit pay-
12 ments to. The purchaser of a property tax receivable shall not contact the
13 delinquent taxpayer for any reason arising out of the sale of a property
14 tax receivable pursuant to this section.

15 (e) The order of priority of the application of property tax receivables
16 with respect to a particular property shall not be changed by reason of
17 the sale of all or a portion of such property tax receivables. All amounts
18 collected on account of the property tax receivables shall be promptly
19 paid by the taxing subdivision to the holder of the tax receivable, except
20 that the taxing subdivision shall have the right to retain all amounts that
21 are charged and collected as trustee's fees, attorney's fees and costs of
22 collection or that are otherwise collected in excess of the amount due on
23 the property tax receivables sold.

24 (f) Unless provided otherwise in the purchase and sale agreement
25 with respect to property tax receivables sold:

26 (1) The amount bid in a tax sale on behalf of governmental entities
27 for which the taxes are owing shall include the amount of all property tax
28 receivables sold, including the costs incident to the collection thereof;

29 (2) in the event that the tax receivable is not redeemed by the end
30 of the redemption period prescribed by K.S.A. 79-2401a, and amend-
31 ments thereto, and is acquired by a governmental entity in a tax sale, then
32 the governmental entity shall promptly offer the property for sale to pri-
33 vate purchasers by appropriate means and shall make diligent efforts to
34 sell the same at its reasonable market value, unless the governmental
35 entity pays to the purchasers of the property tax receivables the full
36 amount of the property tax receivables then due and unpaid;

37 (3) after a tax sale to a governmental entity, penalties and interest
38 pursuant to K.S.A. 79-2968, and amendments thereto, shall continue to
39 accrue on any property tax receivables sold until paid in full, except that
40 under no circumstances shall the cost of redemption be greater than if
41 the receivable had not been sold; and

42 (4) no governmental entity shall have the power to discharge, reduce,
43 delay or otherwise compromise the payment of any property tax receiv-

1 ables that have been sold unless the governmental entity pays to the
2 purchasers of the property tax receivables the amount of the tax receivable
3 payments that have been reduced, delayed or otherwise compromised.

4 (g) Property tax receivables and the penalties and interest accrued
5 thereon shall be exempt from taxation by any governmental entity. The
6 real property affected by any tax receivable shall not be exempt from
7 taxation by reason of this section.

8 (h) It shall be the duty of the treasurer and all other state, county
9 and municipal officers to continue to enforce the collection of property
10 tax receivables that have been sold pursuant to this section in the same
11 manner as if such property tax receivables had not been sold. Nothing in
12 this subsection shall be construed to require the treasurer or its employ-
13 ees, agents or attorneys a standard of performance of their statutory or
14 contractual duties in the collection of a tax receivable that is different
15 from the standard of performance otherwise required of those persons.

16 Sec. 2. (a) As used in this section:

17 (1) "Secretary" means the secretary of revenue.

18 (2) "Tax receivable" means the right to receive revenue from a tax
19 and interest levied and assessed by any state law, that has become delin-
20 quent in whole or in part. The term "tax receivable" shall not include
21 penalties or other charges accrued pursuant to law.

22 (b) Pursuant to the provisions of this section, the secretary may elect
23 to sell tax receivables to public or private parties. All interest and penalties
24 imposed by law shall continue to accrue on the unpaid original amount
25 of the tax in the same manner as if such tax receivables had not been sold.
26 The secretary may establish such criteria for eligible purchasers of tax
27 receivables and may make such sales pursuant to negotiated sale for such
28 prices as the secretary determines to be in the best interest of the state.

29 (c) The secretary may enter into purchase and sale agreements for
30 the sale of tax receivables, which purchase and sale agreements may,
31 consistent with the provisions of this section, contain such terms, cove-
32 nants, representations and warranties as, in the judgment of the secretary,
33 shall be necessary or desirable. The agreement may require the secretary
34 to repurchase a tax receivable, or to substitute another tax receivable of
35 equivalent value, for prices and under conditions specified in the
36 agreement.

37 (d) After entering into an agreement for the sale of a property tax
38 receivable the taxing subdivision shall give notice to the delinquent tax-
39 payer of the sale of the property tax receivable. Such notice shall include
40 the amount of the delinquent tax debt and the current interest rate. The
41 purchaser of a property tax receivable shall not contact the delinquent
42 taxpayer for any reason arising out of the sale of a property tax receivable
43 pursuant to this section, as well as language which clearly indicates who

1 the taxpayer is to remit payments to.

2 (e) All amounts collected on account of the tax receivables shall be
3 promptly paid by the secretary to the holder of the tax receivable, except
4 that the secretary shall have the right to retain all amounts that are
5 charged and collected as attorney's fees and costs of collection or that are
6 otherwise collected in excess of the amount due on the tax receivable
7 sold.

8 (f) Unless provided otherwise in the purchase and sale agreement
9 with respect to tax receivables sold, the secretary shall not discharge,
10 reduce, delay or otherwise compromise the payment of any tax receive-
11 bles that have been sold unless the secretary pays to the purchasers of
12 the tax receivables the amount of the tax receivable payments that have
13 been reduced, delayed or otherwise compromised.

14 (g) It shall be the duty of the secretary and all other state officers to
15 continue to enforce the collection of tax receivables that have been sold
16 pursuant to this section in the same manner as if such tax receivables had
17 not been sold. Nothing in this subsection shall be construed to require a
18 standard of performance of statutory or contractual duties in the collec-
19 tion of a tax receivable that is different from the standard of performance
20 otherwise required.

21 Sec. 3. This act shall take effect and be in force from and after its
22 publication in the statute book.