

HOUSE BILL No. 2324

By Committee on Local Government

2-7

1 AN ACT concerning rental property; relating to the residential landlord
2 and tenant act; removing the requirement to publish notice prior to a
3 landlord's sale of abandoned tenant property; amending K.S.A. 58-2565
4 and repealing the existing section.
5

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

7 Section 1. K.S.A. 58-2565 is hereby amended to read as follows: 58-
8 2565. (a) If the rental agreement requires the tenant to give notice to the
9 landlord of an anticipated extended absence in excess of seven days
10 required in K.S.A. 58-2558, and amendments thereto, and the tenant
11 willfully fails to do so, the landlord may recover actual damages from the
12 tenant.

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

19 (c) If the tenant abandons the dwelling unit, the landlord shall make
20 reasonable efforts to rent it at a fair rental. If the landlord rents the
21 dwelling unit for a term beginning prior to the expiration of the rental
22 agreement, it is deemed to be terminated as of the date the new tenancy
23 begins. The rental agreement is deemed to be terminated by the landlord as
24 of the date the landlord has notice of the abandonment, if the landlord fails
25 to use reasonable efforts to rent the dwelling unit at a fair rental or if the
26 landlord accepts the abandonment as a surrender. If the tenancy is from
27 month-to-month, or week-to-week, the term of the rental agreement for
28 this purpose shall be deemed to be a month or a week, as the case may be.

29 (d) If the tenant abandons or surrenders possession of the dwelling
30 unit and leaves household goods, furnishings, fixtures or any other
31 personal property in or at the dwelling unit or if the tenant is removed
32 from the dwelling unit as a result of a forcible detainer action, pursuant to
33 K.S.A. 61-3801 through 61-3808, and amendments thereto, and fails to
34 remove any household goods, furnishings, fixtures or any other personal
35 property in or at the dwelling unit after possession of the dwelling unit is
36 returned to the landlord, the landlord may take possession of the property,

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

25 (e) Any proceeds from the sale or other disposition of the property as
26 provided in subsection (d) shall be applied by the landlord in the following
27 order:

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

30 (2) to the satisfaction of any amount due from the tenant to the
31 landlord for rent or otherwise; and,

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

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

43 Sec. 2. K.S.A. 58-2565 is hereby repealed.

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