

2012 Kansas Statutes

79-2801. Action to enforce lien for unredeemed real estate bid in by county; summons; service by publication; assistance by city in foreclosure proceedings, when. (a) Except as provided by K.S.A. 79-2811, and amendments thereto, whenever real estate has been or shall be sold and bid in by the county at any delinquent tax sale and remains unredeemed on September 1 of the second year after the sale, or any extension thereof as provided by subsection (b) of K.S.A. 79-2401a, and amendments thereto, or whenever real estate described by subsection (a)(2) of K.S.A. 79-2401a, and amendments thereto, has been or shall be sold and bid in by the county at any delinquent tax sale and remains unredeemed on September 1 of the first year after the sale, the board of county commissioners shall order the county attorney or county counselor and it shall be the duty of the county attorney or county counselor to institute an action in the district court, in the name of the board of county commissioners, against the owners or supposed owners of the real estate and all persons having or claiming to have any interest therein or thereto, by filing a petition with the clerk of the court. The board of county commissioners may provide for special legal and other assistance necessary to secure the timely performance of duties required by this act. Whenever the real estate involved is a mineral interest in land which has been severed from the fee, the bringing of the action for the foreclosure of the mineral interest shall be within the discretion of the board of county commissioners. Whenever the aggregate assessed valuation of the real estate subject to sale is less than \$300,000, or the aggregate amount of delinquent taxes, including special assessments, is less than \$10,000, the bringing of the action shall be within the discretion of the board of county commissioners. The petition shall contain a description of each tract, lot or piece of real estate including, if in a city of the first or second class, the street number or location. The petition shall state, as far as practicable, the amount of taxes, charges, interest and penalties chargeable to each tract, lot or piece of real estate, the name of the owner, supposed owner and party having or claiming to have any interest therein or thereto, and giving the year the real estate was sold for delinquent taxes under the provisions of K.S.A. 79-2302, and amendments thereto. The petition shall request that the court determine the amount of taxes, charges, interest and penalties chargeable to each particular tract, lot or piece of real estate, the name of the owner or party having any interest therein. The petition also shall request that the court adjudge and decree the amount due to be a first and prior lien upon the real estate and that the same be sold at public sale for the satisfaction of the lien, costs, charges and expenses of the proceedings and sale and other necessary relief. The petition shall be filed in duplicate and a copy delivered by the clerk to the county treasurer, who thereafter shall accept no payments of taxes upon the real estate included in the petition except as provided by K.S.A. 79-2801 to 79-2810, inclusive, and amendments thereto.

A summons shall be issued and personally served or publication made as provided in other cases under the code of civil procedure. If service is made by publication, the notice, in addition to the requirements prescribed by the code of civil procedure, shall contain a description of the real estate. Any member of the board of county commissioners, county attorney or county counselor who fails to perform the duties required by this section shall forfeit the office held by the officer. Any person may secure enforcement of the provisions of this act through mandamus. Such proceeding shall be initiated by filing a petition in a court of competent jurisdiction.

(b) The governing body of any city may provide for the rendering of legal and other assistance to the county attorney or county counselor to secure the expeditious judicial foreclosure of real estate on which there is unredeemed delinquent tax liens, including delinquent special assessments. The provision of such services by the city shall not relieve any county officer of the requirement to perform the duties required by this act. The actual and necessary costs incurred by a city in providing such assistance shall be considered as costs incident to the sale of the real estate and the city may be reimbursed therefor from the proceeds of the sale in an amount apportioned pursuant to K.S.A. 79-2805, and amendments thereto.

(c) If the board of county commissioners fails to initiate proceedings for a judicial tax foreclosure sale on property located within the corporate limits of a city and if the taxes on such property have remained delinquent for at least three years after such property first becomes eligible for sale by the county at a judicial tax foreclosure sale pursuant to K.S.A. 79-2801 et seq., and amendments thereto, the governing body of the city in which such property is located may initiate a judicial tax foreclosure sale on such property. The governing body of such city shall have the same powers and duties of the board of county commissioners under K.S.A. 79-2801 et seq., and amendments thereto, which are necessary to effectuate the sale of such property. The city attorney of such city shall have the same powers and duties of the county attorney or county counselor under K.S.A. 79-2801 et seq., and amendments thereto, relating to the judicial tax foreclosure sale of such property. All other county officers shall perform the duties prescribed by law relating to the sale of such property in the same manner as if such sale had been initiated by the board of county commissioners.

History: L. 1901, ch. 392, § 1; R.S. 1923, 79-2801; L. 1931, ch. 306, § 1; L. 1933, ch. 312, § 11; L. 1941, ch. 375, § 16; L. 1945, ch. 362, § 1; L. 1949, ch. 477, § 1; L. 1968, ch. 398, § 4; L. 1984, ch. 355, § 3; L. 1985, ch. 320, § 1; L. 1986, ch. 379, § 1; L. 1992, ch. 320, § 4; L. 1993, ch. 257, § 2; L. 2001, ch. 214, § 2; July 1.