

Testimony in support of SB 346

Presented to the
Senate Committee on Local Government

by
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Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill 346. Senate Bill 346 is intended to assist Kansas counties with the collection of delinquent real estate taxes by amending K.S.A. 79-2804g and K.S.A. 79-2804h. These statutes relate to who can bid at delinquent real estate tax foreclosure auctions, and to whom the successful bidder may deed the property.

State law prohibits some categories of people, and business entities, from bidding at tax foreclosure auctions. (Examples: the original debtor, family members of the debtor, and corporate officers of a corporate debtor.) This is to prevent debtors from circumventing the tax collection process: a debtor who doesn't pay real estate taxes may not buy his own property at the tax sale, potentially for less than he would have paid in taxes.

However, because of an amendment in 2003, mortgage holders now can bid on a property for less than the taxes owed, and can immediately deed the property back to the original debtor. If the property sells for less than the taxes owed, the debtor or the mortgage holder owns the property, and the taxpayers of Kansas have lost the tax revenue. We are asking you to close this loophole.

Senate Bill 346 returns K.S.A. 79-2804g and K.S.A. 79-2804h to their pre-2003 status. A mortgage holder would still be able to redeem the property at any time before the auction, but could not bid at tax foreclosure auction. Senate Bill 346 would prohibit anyone from buying at auction for less than the taxes owed, then transferring the property to someone in one of the prohibited categories (for ten years.)

It is important to remember:

1. currently, other persons or business entities with a connection to the delinquent property may not bid, and no one – except a mortgage holder – may transfer a property back to the original debtor (for ten years.)
2. a mortgage holder may be a lending institution or anyone who loans money and takes a mortgage.

Senate Local Government

1-30-2012

Attachment 1

3. mortgage holders have specific rights and obligations, by law, that govern their actions and that offer protections to the mortgage holder. A mortgage holder of record can require that the taxes be paid as part of the mortgage payment; can ask for special billing from the county treasurer, so that it receives copies of the tax bills and delinquency notices; can foreclose on its mortgage to protect its interest; and is entitled to be named as a party of interest in the tax foreclosure suit so that it can claim its lien in the county's suit.

Kansas counties, however, do not have any other remedy for collecting delinquent real estate taxes. Kansas counties are not entitled to seek personal judgments against a debtor.

We appreciate your consideration of the problem and of the proposed solution, and we respectfully urge your support of this amendment. Thank you.

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