

## HOUSE BILL No. 2382

By Committee on Taxation

2-28

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1 AN ACT concerning taxation; relating to tax liens upon personal property;  
2 amending K.S.A. 2012 Supp. 79-3235 and 79-3617 and repealing the  
3 existing sections.  
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2012 Supp. 79-3235 is hereby amended to read as  
7 follows: 79-3235. (a) If any tax imposed by this act or any portion of such  
8 tax is not paid within 60 days after it becomes due, the secretary or the  
9 secretary's designee shall issue a warrant under the secretary's or the  
10 secretary's designee's hand and official seal, directed to the sheriff of any  
11 county of the state, commanding the sheriff to levy upon and sell the real  
12 and personal property of the taxpayer found within the sheriff's county for  
13 the payment of the amount thereof, with the added penalties, interest and  
14 the cost of executing the warrant and to return the warrant to the secretary  
15 or the secretary's designee and pay to the secretary or the secretary's  
16 designee the money collected by virtue of it not more than 60 days from  
17 the date of the warrant. Firearms seized may be appraised and disposed of  
18 in the same manner prescribed in K.S.A. 79-5212, and amendments  
19 thereto. The sheriff, within five days after the receipt of the warrant, shall  
20 file with the clerk of the district court of the county a copy thereof, and  
21 thereupon the clerk shall either enter in the appearance docket the name of  
22 the taxpayer mentioned in the warrant, the amount of the tax or portion of  
23 it, interest and penalties for which the warrant is issued and the date such  
24 copy is filed and note the taxpayer's name in the general index. No fee  
25 shall be charged for either entry. The amount of such warrant so docketed  
26 shall thereupon become a lien upon the title to and interest in the real  
27 property of the taxpayer against whom it is issued. The sheriff shall  
28 proceed in the same manner and with the same effect as prescribed by law  
29 with respect to executions issued against property upon judgments of a  
30 court of record and shall be entitled to the same fees for services to be  
31 collected in the same manner.

32 (b) *Once the warrant has been docketed with the clerk of the district*  
33 *court, the secretary or the secretary's designee shall file with the office of*  
34 *the secretary of state a notice of lien. No fee shall be charged by the*  
35 *secretary of state for this filing. The notice of lien shall thereupon become*  
36 *a lien upon the title to and interest in the tangible personal property,*

1 *wherever located in the state of Kansas, of the taxpayer against whom the*  
2 *notice of lien was filed.*

3 (c) The court in which the warrant is docketed shall have jurisdiction  
4 over all subsequent proceedings as fully as though a judgment had been  
5 rendered in the court. In the discretion of the secretary or the secretary's  
6 designee a warrant of like terms, force and effect may be issued and  
7 directed to any officer or employee of the secretary, and in the execution  
8 thereof such officer or employee shall have all the powers conferred by  
9 law upon sheriffs, and the subsequent proceedings thereunder shall be the  
10 same as provided where the warrant is issued directly to the sheriff. The  
11 taxpayer shall have the right to redeem the real estate within a period of 18  
12 months from the date of such sale. If a warrant is returned, unsatisfied in  
13 full, the secretary or the secretary's designee shall have the same remedies  
14 to enforce the claim for taxes as if the state of Kansas had recovered  
15 judgment against the taxpayer for the amount of the tax. No law exempting  
16 any goods and chattels, lands and tenements from forced sale under  
17 execution shall apply to a levy and sale under any such warrant or upon  
18 any execution issued upon any judgment rendered in any action for income  
19 taxes. Except as provided ~~further~~ *in subsection (d)*, the secretary or the  
20 secretary's designee shall have the right after a warrant has been returned  
21 unsatisfied or satisfied only in part, to issue alias warrants until the full  
22 amount of the tax is collected.

23 (d) If execution is not issued within 10 years from the date of the  
24 docketing of any such warrant, or if 10 years shall have intervened  
25 between the date of the last execution issued on such warrant, and the time  
26 of issuing another writ of execution thereon, such warrant shall become  
27 dormant, and shall cease to operate as a lien on the real estate of the  
28 delinquent taxpayer. Such dormant warrant may be revived in like manner  
29 as dormant judgment under the code of civil procedure.

30 (e) *The lien on tangible personal property provided in subsection (b)*  
31 *shall cease to exist 10 years from the date of the filing of the notice of lien*  
32 *with the office of the secretary of state, unless before such time the*  
33 *secretary or the secretary's designee files with the office of the secretary of*  
34 *state a notice of renewal of such lien. The notice of renewal shall operate*  
35 *to extend the lien for 10 years from the date of the filing of the notice. The*  
36 *lien may be extended through the filing of a notice of renewal an unlimited*  
37 *number of times, as long as each notice of renewal is filed within 10 years*  
38 *of the date the previous notice of renewal was filed.*

39 Sec. 2. K.S.A. 2012 Supp. 79-3617 is hereby amended to read as  
40 follows: 79-3617. (a) Whenever any taxpayer liable to pay any sales or  
41 compensating tax, refuses or neglects to pay the tax, the amount, including  
42 any interest or penalty, shall be collected in the following manner. The  
43 secretary of revenue or the secretary's designee shall issue a warrant under

1 the hand of the secretary or the secretary's designee and official seal  
2 directed to the sheriff of any county of the state commanding the sheriff to  
3 levy upon and sell the real and personal property of the taxpayer found  
4 within the sheriff's county to satisfy the tax, including penalty and interest,  
5 and the cost of executing the warrant and to return such warrant to the  
6 secretary or the secretary's designee and pay to the secretary or the  
7 secretary's designee the money collected by virtue thereof not more than  
8 90 days from the date of the warrant. Firearms seized may be appraised  
9 and disposed of in the same manner prescribed in K.S.A. 79-5212, and  
10 amendments thereto. The sheriff ~~shall~~, within five days, after the receipt of  
11 the warrant, *shall* file with the clerk of the district court of the county a  
12 copy thereof, and thereupon the clerk shall either enter in the appearance  
13 docket the name of the taxpayer mentioned in the warrant, the amount of  
14 the tax or portion of it, interest and penalties for which the warrant is  
15 issued and the date such copy is filed and note the taxpayer's name in the  
16 general index. No fee shall be charged for either such entry. The amount of  
17 such warrant so docketed shall thereupon become a lien upon the title to,  
18 and interest in, the real property of the taxpayer against whom it is issued.  
19 The sheriff shall proceed in the same manner and with the same effect as  
20 prescribed by law with respect to executions issued against property upon  
21 judgments of a court of record, and shall be entitled to the same fees for  
22 services.

23 *(b) Once the warrant has been docketed with the clerk of the district*  
24 *court, the secretary or the secretary's designee shall file with the office of*  
25 *the secretary of state a notice of lien. No fee shall be charged by the*  
26 *secretary of state for this filing. The notice of lien shall thereupon become*  
27 *a lien upon the title to and interest in the tangible personal property,*  
28 *wherever located in the state of Kansas, of the taxpayer against whom the*  
29 *notice of lien was filed.*

30 *(c) The court in which the warrant is docketed shall have jurisdiction*  
31 *over all subsequent proceedings as fully as though a judgment had been*  
32 *rendered in the court. A warrant of similar terms, force and effect may be*  
33 *issued by the secretary or the secretary's designee and directed to any*  
34 *officer or employee of the secretary or the secretary's designee, and in the*  
35 *execution thereof such officer or employee shall have all the powers*  
36 *conferred by law upon sheriffs with respect to executions issued against*  
37 *property upon judgments of a court of record and the subsequent*  
38 *proceedings thereunder shall be the same as provided where the warrant is*  
39 *issued directly to the sheriff. The taxpayer shall have the right to redeem*  
40 *the real estate within a period of 18 months from the date of such sale. If a*  
41 *warrant is returned, unsatisfied in full, the secretary or the secretary's*  
42 *designee shall have the same remedies to enforce the claim for taxes as if*  
43 *the state of Kansas had recovered judgment against the taxpayer for the*

1 amount of the tax. No law exempting any goods and chattels, land and  
2 tenements from forced sale under execution shall apply to a levy and sale  
3 under any of the warrants or upon any execution issued upon any  
4 judgment rendered in any action for sales or compensating taxes. Except  
5 as provided—~~further~~ *in subsection (d)*, the secretary or the secretary's  
6 designee shall have the right after a warrant has been returned unsatisfied,  
7 or satisfied only in part, to issue alias warrants until the full amount of the  
8 tax is collected. No costs incurred by the sheriff or the clerk of the court  
9 shall be charged to the secretary or the secretary's designee.

10 *(d) If execution is not issued within 10 years from the date of the*  
11 *docketing of any such warrant, or if 10 years shall have intervened*  
12 *between the date of the last execution issued on such warrant, and the time*  
13 *of issuing another writ of execution thereon, such warrant shall become*  
14 *dormant, and shall cease to operate as a lien on the real estate of the*  
15 *delinquent taxpayer. Such dormant warrant may be revived in like manner*  
16 *as dormant judgments under the code of civil procedure.*

17 *(e) The lien on tangible personal property provided in subsection (b)*  
18 *shall cease to exist 10 years from the date of the filing of the notice of lien*  
19 *with the office of the secretary of state, unless before such time the*  
20 *secretary or the secretary's designee files with the office of the secretary of*  
21 *state a notice of renewal of such lien. The notice of renewal shall operate*  
22 *to extend the lien for 10 years from the date of the filing of the notice. The*  
23 *lien may be extended through the filing of a notice of renewal an unlimited*  
24 *number of time, as long as each notice of renewal is filed within 10 years*  
25 *of the date the previous notice of renewal was filed.*

26 Sec. 3. K.S.A. 2012 Supp. 79-3235 and 79-3617 are hereby repealed.

27 Sec. 4. This act shall take effect and be in force from and after its  
28 publication in the statute book.