

HOUSE BILL No. 2205

AN ACT concerning property taxation; relating to exemptions, fair market value and special assessments; relating to the sale of real estate for delinquent taxes; amending K.S.A. 79-201q, 79-201s, 79-503a and 79-2804h and K.S.A. 2002 Supp. 79-213 and 79-2804g and repealing the existing sections.

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

Section 1. K.S.A. 79-201q is hereby amended to read as follows: 79-201q. The following described property, to the extent herein specified, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

(a) (1) All property owned and primarily operated as an airport by a political subdivision, including property leased by the political subdivision for purposes not essential to the operation of an airport, for all taxable years commencing before January 1, 1993.

(2) For all taxable years commencing after December 31, 1992, all property owned and primarily operated as an airport by a political subdivision, including property leased by the political subdivision for purposes essential to the operation of an airport. Payments in lieu of property taxes may be required for any or all of such years for such leased property, and such payments shall be apportioned and distributed in the same manner as general property taxes.

(b) If the term of any lease existing on April 15, 1991, of any such property for purposes not essential to the operation of an airport extends beyond tax year 1992, the expiration date of the exemption provided by subsection (a) shall be the tax year next following the tax year during which such lease expires. Payments in lieu of taxes may be required for taxable years commencing after December 31, 1992, for any such property for the duration of any such lease, and all such payments shall be apportioned and distributed in the same manner as general property taxes.

(c) Nothing in this section shall be deemed to apply to or limit the operation of K.S.A. 27-319, 27-330 or 79-201a Second, and amendments thereto.

(d) All property taxes, including any penalties and interest accrued thereon, imposed upon any property described in subsection (a) and (b) for all taxable years to which such subsections apply are hereby declared to be cancelled but any such amounts paid in any such year shall not be refunded except that with respect to Liberal municipal airport such amounts shall be refunded.

(e) *The county or district appraiser shall value the land and improvements, and the value of the land and improvements may be entered on the assessment rolls in separate entries and descriptions. The provisions of this subsection shall be applicable to all taxable years commencing after December 31, 1992.*

Sec. 2. K.S.A. 79-201s is hereby amended to read as follows: 79-201s.

(a) For all taxable years commencing after December 31, 1991, all property owned and primarily operated as an airport by an airport authority established under K.S.A. 3-162 *et seq.*, and amendments thereto, including property leased by the airport authority for aviation related purposes, shall be exempt from all property or ad valorem taxes levied under the laws of this state. If the term of any lease existing on April 15, 1991, of any property for purposes not aviation related extends beyond tax year 1991, such property shall be exempt from all property or ad valorem taxes levied under the laws of this state until the tax year next following the tax year during which such lease expires.

(b) All property or ad valorem taxes, including any penalties and interest accrued thereon, imposed upon any property described by subsection (a) for all taxable years commencing prior to January 1, 1992, are hereby declared to be cancelled.

(c) *The county or district appraiser shall value the land and improvements, and the value of the land and improvements may be entered on the assessment rolls in separate entries and descriptions. The provisions of this subsection shall be applicable to all taxable years commencing after December 31, 1991.*

Sec. 3. K.S.A. 2002 Supp. 79-213 is hereby amended to read as follows: 79-213. (a) Any property owner requesting an exemption from the payment of ad valorem property taxes assessed, or to be assessed, against their property shall be required to file an initial request for exemption,

on forms approved by the board of tax appeals and provided by the county appraiser.

(b) The initial exemption request shall identify the property for which the exemption is requested and state, in detail, the legal and factual basis for the exemption claimed.

(c) The request for exemption shall be filed with the county appraiser of the county where such property is principally located.

(d) After a review of the exemption request, and after a preliminary examination of the facts as alleged, the county appraiser shall recommend that the exemption request either be granted or denied, and, if necessary, that a hearing be held. If a denial is recommended, a statement of the controlling facts and law relied upon shall be included on the form.

(e) The county appraiser, after making such written recommendation, shall file the request for exemption and the recommendations of the county appraiser with the board of tax appeals.

(f) Upon receipt of the request for exemption, the board shall docket the same and notify the applicant and the county appraiser of such fact.

(g) After examination of the request for exemption, and the county appraiser's recommendation related thereto, the board may fix a time and place for hearing, and shall notify the applicant and the county appraiser of the time and place so fixed. A request for exemption pursuant to: (1) Section 13 of article 11 of the Kansas constitution; or (2) K.S.A. 79-201a *Second*, and amendments thereto, for property constructed or purchased, in whole or in part, with the proceeds of revenue bonds under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, prepared in accordance with instructions and assistance which shall be provided by the department of commerce and housing, shall be deemed approved unless scheduled for hearing within 30 days after the date of receipt of all required information and data relating to the request for exemption, and such hearing shall be conducted within 90 days after such date. Such time periods shall be determined without regard to any extension or continuance allowed to either party to such request. In any case where a party to such request for exemption requests a hearing thereon, the same shall be granted. Hearings shall be conducted in accordance with the provisions of the Kansas administrative procedure act. In all instances where the board sets a request for exemption for hearing, the county shall be represented by its county attorney or county counselor.

(h) Except as otherwise provided by subsection (g), in the event of a hearing, the same shall be originally set not later than 90 days after the filing of the request for exemption with the board.

(i) During the pendency of a request for exemption, no person, firm, unincorporated association, company or corporation charged with real estate or personal property taxes pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, on the tax books in the hands of the county treasurer shall be required to pay the tax from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon and the same becomes a final order. In the event that taxes have been assessed against the subject property, no interest shall accrue on any unpaid tax for the year or years in question nor shall the unpaid tax be considered delinquent from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon. In the event the board determines an application for exemption is without merit and filed in bad faith to delay the due date of the tax, the tax shall be considered delinquent as of the date the tax would have been due pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, and interest shall accrue as prescribed therein.

(j) In the event the board grants the initial request for exemption, the same shall be effective beginning with the date of first exempt use except that, with respect to property the construction of which commenced not to exceed 24 months prior to the date of first exempt use, the same shall be effective beginning with the date of commencement of construction.

(k) In conjunction with its authority to grant exemptions, the board shall have the authority to abate all unpaid taxes that have accrued from and since the effective date of the exemption. In the event that taxes have been paid during the period where the subject property has been deter-

mined to be exempt, the board shall have the authority to order a refund of taxes for ~~a period not to exceed three years~~ *the year immediately preceding the year in which the exemption application is filed in accordance with subsection (a).*

(l) The provisions of this section shall not apply to: (1) Farm machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (2) personal property exempted from ad valorem taxation by K.S.A. 79-215, and amendments thereto; (3) wearing apparel, household goods and personal effects exempted from ad valorem taxation by K.S.A. 79-201c, and amendments thereto; (4) livestock; (5) hay and silage exempted from ad valorem taxation by K.S.A. 79-201d, and amendments thereto; (6) merchants' and manufacturers' inventories exempted from ad valorem taxation by K.S.A. 79-201m and amendments thereto; (7) grain exempted from ad valorem taxation by K.S.A. 79-201n, and amendments thereto; (8) property exempted from ad valorem taxation by K.S.A. 79-201a *Seventeenth* and amendments thereto, including all property previously acquired by the secretary of transportation or a predecessor in interest, which is used in the administration, construction, maintenance or operation of the state system of highways. The secretary of transportation shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (9) property exempted from ad valorem taxation by K.S.A. 79-201a *Ninth*, and amendments thereto, including all property previously acquired by the Kansas turnpike authority which is used in the administration, construction, maintenance or operation of the Kansas turnpike. The Kansas turnpike authority shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (10) aquaculture machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto. As used in this section, "aquaculture" has the same meaning ascribed thereto by K.S.A. 47-1901, and amendments thereto; (11) Christmas tree machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (12) property used exclusively by the state or any municipality or political subdivision of the state for right-of-way purposes. The state agency or the governing body of the municipality or political subdivision shall at the time of acquisition of property for right-of-way purposes notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (13) machinery, equipment, materials and supplies exempted from ad valorem taxation by K.S.A. 79-201w, and amendments thereto; (14) vehicles owned by the state or by any political or taxing subdivision thereof and used exclusively for governmental purposes; (15) property used for residential purposes which is exempted pursuant to K.S.A. 79-201x from the property tax levied pursuant to K.S.A. 72-6431, and amendments thereto; (16) from and after July 1, 1998, vehicles which are owned by an organization having as one of its purposes the assistance by the provision of transit services to the elderly and to disabled persons and which are exempted pursuant to K.S.A. 79-201 Ninth; and (17) from and after July 1, 1998, motor vehicles exempted from taxation by subsection (e) of K.S.A. 79-5107, and amendments thereto.

(m) The provisions of this section shall apply to property exempt pursuant to the provisions of section 13 of article 11 of the Kansas constitution.

(n) The provisions of subsection ~~(j) and~~ (k) as amended by this act shall be applicable to all ~~taxable years commencing~~ *exemption applications filed in accordance with subsection (a) after December 31, 1995* 2001.

Sec. 4. K.S.A. 79-503a is hereby amended to read as follows: 79-503a. "Fair market value" means the amount in terms of money that a well informed buyer is justified in paying and a well informed seller is justified in accepting for property in an open and competitive market, assuming that the parties are acting without undue compulsion. *In the determination of fair market value of any real property which is subject to any special assessment, such value shall not be determined by adding*

the present value of the special assessment to the sales price. For the purposes of this definition it will be assumed that consummation of a sale occurs as of January 1.

Sales in and of themselves shall not be the sole criteria of fair market value but shall be used in connection with cost, income and other factors including but not by way of exclusion:

- (a) The proper classification of lands and improvements;
- (b) the size thereof;
- (c) the effect of location on value;
- (d) depreciation, including physical deterioration or functional, economic or social obsolescence;
- (e) cost of reproduction of improvements;
- (f) productivity;
- (g) earning capacity as indicated by lease price, by capitalization of net income or by absorption or sell-out period;
- (h) rental or reasonable rental values;
- (i) sale value on open market with due allowance to abnormal inflationary factors influencing such values;
- (j) restrictions imposed upon the use of real estate by local governing bodies, including zoning and planning boards or commissions; and
- (k) comparison with values of other property of known or recognized value. The assessment-sales ratio study shall not be used as an appraisal for appraisal purposes.

The appraisal process utilized in the valuation of all real and tangible personal property for ad valorem tax purposes shall conform to generally accepted appraisal procedures which are adaptable to mass appraisal and consistent with the definition of fair market value unless otherwise specified by law.

New Sec. 5. As part of the contract or prior to the execution of a contract for the sale of any real property which is subject to a special assessment or fee pursuant to K.S.A. 12-6a01 *et seq.*, and amendments thereto, the seller of the property shall disclose to the buyer that the property is subject to such special assessment or fee or located in an improvement district created pursuant to K.S.A. 12-6a01 *et seq.*, and amendments thereto. If the amount of such special assessment or fee is unknown, the seller shall make a good faith estimation of such amount. The seller of the property shall obtain a written acknowledgment from the buyer that the buyer is aware of such assessment or fee or that the property is located in an improvement district created pursuant to K.S.A. 12-6a01 *et seq.*, and amendments thereto.

New Sec. 6. As part of the contract or prior to the execution of a contract for the sale of any real property which is subject to a special assessment or fee pursuant to K.S.A. 12-601 *et seq.*, and amendments thereto, the seller of the property shall disclose to the buyer that the property is subject to such special assessment or fee or located in an improvement district created pursuant to K.S.A. 12-601 *et seq.*, and amendments thereto. If the amount of such special assessment or fee is unknown, the seller shall make a good faith estimation of such amount. The seller of the property shall obtain a written acknowledgment from the buyer that the buyer is aware of such assessment or fee or that the property is located in an improvement district created pursuant to K.S.A. 12-601 *et seq.*, and amendments thereto.

Sec. 7. K.S.A. 2002 Supp. 79-2804g is hereby amended to read as follows: 79-2804g. (a) Whenever any tract, lot or piece of real estate is offered for sale at public auction pursuant to K.S.A. 79-2804, and amendments thereto, such tract, lot or piece of real estate shall not be sold, either directly or indirectly, to:

- (1) Any person having a statutory right to redeem such real estate prior to such sale, pursuant to the provisions of K.S.A. 79-2803, and amendments thereto, *except that this paragraph (1) shall not prohibit sale to any person or such person's assignee who held an interest in such real estate as mortgagee of record at the time of the sale;*
- (2) any parent, grandparent, child, grandchild, spouse, sibling, trustee or trust beneficiary who held an interest in a tract as owner or holder of the record title or who held an interest at any time when any tax constituting part of the county's judgment became due; or
- (3) with respect to a title holding corporation, any current or former

stockholder, current officer or director, or any person having a relationship enumerated in paragraph (2) to such stockholder, officer or director.

(b) If any such real estate is acquired by a county pursuant to K.S.A. 79-2804, and amendments thereto, and, at the end of six months from and after confirmation of such sale to the county, such real estate is advertised for sale at public auction, as provided in K.S.A. 79-2804f, and amendments thereto, such real estate shall not be sold, either prior to or at such auction, to any person having a statutory right to redeem such real estate, under the provisions of K.S.A. 79-2803, and amendments thereto, for an amount less than the original judgment lien and interest thereon, plus the costs, charges and expenses of the proceedings and sale, as set forth in the execution and order of sale issued pursuant to K.S.A. 79-2804, and amendments thereto.

(c) If any tract, lot or piece of real estate purchased at public auction pursuant to K.S.A. 79-2804, and amendments thereto, is transferred, sold, given or otherwise conveyed to any person who had a statutory right to redeem such real estate prior to such sale pursuant to K.S.A. 79-2803, and amendments thereto, within 10 years of the date of the public auction, such person shall be liable for an amount equal to the original judgment lien and interest thereon from the date of the public auction, *except that this subsection shall not apply to any person or such person's assignee who held an interest in such real estate as mortgagee of record at the time of the sale.*

(d) The provisions of this section shall apply to the sale or conveyance of any real estate by a county land bank established pursuant to K.S.A. 2002 Supp. 19-26,104, *and amendments thereto.*

Sec. 8. K.S.A. 79-2804h is hereby amended to read as follows: 79-2804h. No sale of real estate as provided for in article 28 of chapter 79 of the Kansas Statutes Annotated, *and amendments thereto*, shall be confirmed as provided for in K.S.A. 79-2804, *and amendments thereto*, until the purchaser at the sale; ~~shall file~~ *files* with the clerk of the court, an affidavit stating that the purchase of the real estate was not made, either directly or indirectly, for any person having the statutory right to redeem, *other than any person or such person's assignee who held an interest in such real estate as mortgagee of record at the time of the sale.*

Sec. 9. K.S.A. 79-201q, 79-201s, 79-503a and 79-2804h and K.S.A. 2002 Supp. 79-213 and 79-2804g are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.