

1 **As Amended by House Committee**

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3 **As Amended by Senate Committee**

4 *Session of 2003*

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6 **SENATE BILL No. 115**

7  
8 By Committee on Assessment and Taxation

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10 1-30

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12 AN ACT concerning the state board of tax appeals; relating to member-  
13 ship thereof; **authorizing certain filing fees; establishing the**  
14 **BOTA filing fee fund**; amending K.S.A. 74-2433 and repealing the  
15 existing section.

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

18 Section 1. K.S.A. 74-2433 is hereby amended to read as follows: 74-  
19 2433. (a) There is hereby created a state board of tax appeals, referred  
20 to in this act as the board. The board shall be composed of ~~five~~ *three*  
21 members who shall be appointed by the governor, subject to confirmation  
22 by the senate as provided in K.S.A. 75-4315b, and amendments thereto.  
23 ~~After January 15, 1999, three of such members shall: (1) Have been regu-~~  
24 ~~larly admitted to practice law in the state of Kansas; and (2) for a period~~  
25 ~~of at least five years, have engaged in the active practice of law as a lawyer,~~  
26 ~~judge of a court of record or any other court in this state, or as a certified~~  
27 ~~public accountant who has maintained registration as an active attorney~~  
28 ~~with the Kansas supreme court, or any combination thereof~~ ***After the***  
29 ***effective date of this act, two of such members shall: (1) Have been***  
30 ***regularly admitted to practice law in the state of Kansas; and (2)***  
31 ***for a period of at least five years, have engaged in the active practice***  
32 ***of law as an attorney, judge of a court of record or any other court***  
33 ***in this state, or as a certified public accountant who has maintained***  
34 ***registration as an active attorney with the Kansas supreme court,***  
35 ***or any combination thereof.*** *No successor shall be appointed for the*  
36 *two members of the board whose terms of office expired on January 15,*  
37 *2003, and if any such appointment is made prior to the effective date of*  
38 *this act, any such member's term of office shall expire on the effective date*  
39 *of this act.* Except as provided by K.S.A. 46-2601, no person appointed  
40 to the board shall exercise any power, duty or function as a member of  
41 the board until confirmed by the senate. Not more than ~~three~~ *two* mem-  
42 bers of the board shall be of the same political party. Members of the  
43 board shall be residents of the state. Subject to the provisions of K.S.A.

1 75-4315c, and amendments thereto, *no more than* one shall be appointed  
2 from ~~each~~ *any one* of the congressional districts of Kansas and the re-  
3 ~~mainder from the state at large~~. The members of the board shall be  
4 selected with special reference to training and experience for duties im-  
5 posed by this act and shall be individuals with legal, accounting or ap-  
6 praisal training and experience. Members shall be subject to the supreme  
7 court rules of judicial conduct applicable to all judges of the district court.  
8 The board shall be bound by the doctrine of *stare decisis* limited to pub-  
9 lished decisions of an appellate court other than a district court. Members  
10 shall hold office for terms of four years and until their successors are  
11 appointed and confirmed. *Except as otherwise provided*, such terms of  
12 office shall expire on January 15 of the last year of such term. If a vacancy  
13 occurs on the board, the governor shall appoint a successor to fill the  
14 vacancy for the unexpired term. The governor shall select one of its mem-  
15 bers to serve as chairperson. The votes of ~~three~~ *two* members shall be  
16 required for any action to be taken by the board. Meetings may be called  
17 by the chairperson and shall be called on request of a majority of the  
18 members of the board and when otherwise prescribed by statute.

19 (b) Any member of the state board of tax appeals may be removed  
20 by the governor for cause, after public hearing conducted in accordance  
21 with the provisions of the Kansas administrative procedure act.

22 (c) The state board of tax appeals shall appoint, subject to approval  
23 by the governor, an executive director of the board, to serve at the plea-  
24 sure of the board. The executive director shall: (1) Be in the unclassified  
25 service under the Kansas civil service act; (2) devote full time to the  
26 executive director's assigned duties; (3) receive such compensation as  
27 determined by the board, subject to the limitations of appropriations  
28 thereof; and (4) have familiarity with the tax appeals process sufficient to  
29 fulfill the duties of the office of executive director. The executive director  
30 shall perform such duties as directed by the board.

31 (d) Appeals decided by the state board of tax appeals which are  
32 deemed of sufficient importance to be published shall be published by  
33 the board.

34 (e) After appointment, members of the state board of tax appeals shall  
35 complete the following course requirements: (1) A tested appraisal course  
36 of not less than 30 clock hours of instruction consisting of the fundamen-  
37 tals of real property appraisal with an emphasis on the cost and sales  
38 approaches to value; (2) a tested appraisal course of not less than 30 clock  
39 hours of instruction consisting of the fundamentals of real property ap-  
40 praisal with an emphasis on the income approach to value; (3) a tested  
41 appraisal course of not less than 30 clock hours of instruction with an  
42 emphasis on mass appraisal; (4) an appraisal course with an emphasis on  
43 Kansas property tax laws and; (5) an appraisal course on the techniques

1 and procedures for the valuation of state assessed properties with an em-  
2 phasis on unit valuation; and (6) a tested appraisal course on the tech-  
3 niques and procedures for the valuation of land devoted to agricultural  
4 use pursuant to K.S.A. 79-1476, and amendments thereto. The executive  
5 director shall adopt rules and regulations prescribing a timetable for the  
6 completion of the course requirements and prescribing continued edu-  
7 cation requirements for members of the board.

8 (f) The state board of tax appeals shall have no capacity or power to  
9 sue or be sued.

10 **New Sec. 2. (a) The executive director of the state board of tax**  
11 **appeals shall charge and collect a filing fee, established by rules**  
12 **and regulations adopted by the state board of tax appeals, for any**  
13 **appeal in any proceeding under the tax protest, tax grievance or**  
14 **tax exemption statutes or in any other original proceeding for such**  
15 **board to recover all or part of the costs of processing such actions**  
16 **incurred by the state board of tax appeals. No filing fee shall be**  
17 **imposed on applications by taxpayers for refunds of protested**  
18 **taxes under the provisions of K.S.A. 79-2005, and amendments**  
19 **thereto, or for appeals from decisions rendered pursuant to K.S.A.**  
20 **79-1448, and amendments thereto, with regard to single-family**  
21 **residential property. Not-for-profit organizations shall not be**  
22 **charged a filing fee exceeding \$10 for any appeal if the valuation**  
23 **of the property that is the subject of the controversy does not ex-**  
24 **ceed \$100,000.**

25 (b) There is hereby created in the state treasury the BOTA fil-  
26 ing fee fund.

27 (c) The executive director of the board of tax appeals shall re-  
28 mit to the state treasurer at least monthly all tax appeal filing fees  
29 received by the state board of tax appeals. Upon receipt of any  
30 such remittance, the state treasurer shall deposit the amount in  
31 the state treasury to the credit of the BOTA filing fee fund.

32 (d) All expenditures from the BOTA filing fee fund shall be  
33 made in accordance with appropriation acts upon warrants of the  
34 director of accounts and reports issued pursuant to vouchers ap-  
35 proved by the executive director of the state board of tax appeals  
36 or a person or persons designated by such executive director.

37 Sec. ~~2~~ 3. K.S.A. 74-2433 is hereby repealed.

38 Sec. ~~2~~ 4. This act shall take effect and be in force from and after its  
39 publication in the Kansas register.

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