

3
4 **SENATE BILL No. 161**

5
6 By Committee on Assessment and Taxation

7
8 2-6
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10 AN ACT concerning property taxation; eliminating exemption for certain
11 housing for elderly persons; amending K.S.A. 2002 Supp. 79-201 and
12 79-201b and repealing the existing sections.
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14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2002 Supp. 79-201 is hereby amended to read as
16 follows: 79-201. The following described property, to the extent herein
17 specified, shall be and is hereby exempt from all property or ad valorem
18 taxes levied under the laws of the state of Kansas:

19 *First.* All buildings used exclusively as places of public worship and all
20 buildings used exclusively by school districts and school district interlocal
21 cooperatives organized under the laws of this state, with the furniture and
22 books therein contained and used exclusively for the accommodation of
23 religious meetings or for school district or school district interlocal co-
24 operative purposes, whichever is applicable, together with the grounds
25 owned thereby if not leased or otherwise used for the realization of profit,
26 except that: (a) (1) Any school building, or portion thereof, together with
27 the grounds upon which the building is located, shall be considered to be
28 used exclusively by the school district for the purposes of this section
29 when leased by the school district to any political or taxing subdivision of
30 the state, including a school district interlocal cooperative, or to any as-
31 sociation, organization or nonprofit corporation entitled to tax exemption
32 with respect to such property; and (2) any school building, together with
33 the grounds upon which the building is located, shall be considered to be
34 used exclusively by a school district interlocal cooperative for the purposes
35 of this section when being acquired pursuant to a lease-purchase agree-
36 ment; and (b) any building, or portion thereof, used as a place of worship,
37 together with the grounds upon which the building is located, shall be
38 considered to be used exclusively for the religious purposes of this section
39 when used as a not-for-profit day care center for children which is li-
40 censed pursuant to K.S.A. 65-501 *et seq.*, and amendments thereto, or
41 when used to house an area where the congregation of a church society
42 and others may purchase tracts, books and other items relating to the
43 promulgation of the church society's religious doctrines.

1 *Second.* All real property, and all tangible personal property, actually
2 and regularly used exclusively for literary, educational, scientific, relig-
3 ious, benevolent or charitable purposes, including property used exclu-
4 sively for such purposes by more than one agency or organization for one
5 or more of such exempt purposes. Except with regard to real property
6 which is owned by a religious organization, is to be used exclusively for
7 religious purposes and is not used for a nonexempt purpose prior to its
8 exclusive use for religious purposes which property shall be deemed to
9 be actually and regularly used exclusively for religious purposes for the
10 purposes of this paragraph, this exemption shall not apply to such prop-
11 erty, not actually used or occupied for the purposes set forth herein, nor
12 to such property held or used as an investment even though the income
13 or rentals received therefrom is used wholly for such literary, educational,
14 scientific, religious, benevolent or charitable purposes. In the event any
15 such property which has been exempted pursuant to the preceding sen-
16 tence is not used for religious purposes prior to its conveyance which
17 results in its use for nonreligious purposes, there shall be a recoupment
18 of property taxes in an amount equal to the tax which would have been
19 levied upon such property except for such exemption for all taxable years
20 for which such exemption was in effect. Such recoupment tax shall be-
21 come due and payable in such year as provided by K.S.A. 79-2004, and
22 amendments thereto. A lien for such taxes shall attach to the real property
23 subject to the same on November 1 in the year such taxes become due
24 and all such taxes remaining due and unpaid after the date prescribed for
25 the payment thereof shall be collected in the manner provided by law for
26 the collection of delinquent taxes. Moneys collected from the recoupment
27 tax hereunder shall be credited by the county treasurer to the several
28 taxing subdivisions within which such real property is located in the pro-
29 portion that the total tangible property tax levies made in the preceding
30 year for each such taxing subdivision bear to the total of all such levies
31 made in that year by all such taxing subdivisions. Such moneys shall be
32 credited to the general fund of the taxing subdivision or if such taxing
33 subdivision is making no property tax levy for the support of a general
34 fund such moneys may be credited to any other tangible property tax
35 fund of general application of such subdivision. This exemption shall not
36 be deemed inapplicable to property which would otherwise be exempt
37 pursuant to this paragraph because an agency or organization: (a) Is re-
38 imbursement for the provision of services accomplishing the purposes enu-
39 merated in this paragraph based upon the ability to pay by the recipient
40 of such services; or (b) is reimbursed for the actual expense of using such
41 property for purposes enumerated in this paragraph; or (c) uses such
42 property for a nonexempt purpose which is minimal in scope and insub-
43 stantial in nature if such use is incidental to the exempt purposes of this

1 paragraph; or (d) charges a reasonable fee for admission to cultural or
2 educational activities or permits the use of its property for such activities
3 by a related agency or organization, if any such activity is in furtherance
4 of the purposes of this paragraph.

5 *Third.* All moneys and credits belonging exclusively to universities, col-
6 leges, academies or other public schools of any kind, or to religious, lit-
7 erary, scientific or benevolent and charitable institutions or associations,
8 appropriated solely to sustain such institutions or associations, not ex-
9 ceeding in amount or in income arising therefrom the limit prescribed
10 by the charter of such institution or association.

11 *Fourth.* The reserve or emergency funds of fraternal benefit societies
12 authorized to do business under the laws of the state of Kansas.

13 *Fifth.* All buildings of private nonprofit universities or colleges which
14 are owned and operated by such universities and colleges as student union
15 buildings, presidents' homes and student dormitories.

16 *Sixth.* All real and tangible personal property actually and regularly
17 used exclusively by the alumni association associated by its articles of
18 incorporation with any public or nonprofit Kansas college or university
19 approved by the Kansas board of regents to confer academic degrees or
20 with any community college approved by its board of trustees to grant
21 certificates of completion of courses or curriculum, to provide accom-
22 modations and services to such college or university or to the alumni, staff
23 or faculty thereof.

24 *Seventh.* All parsonages owned by a church society and actually and
25 regularly occupied and used predominantly as a residence by a minister
26 or other clergyman of such church society who is actually and regularly
27 engaged in conducting the services and religious ministrations of such
28 society, and the land upon which such parsonage is located to the extent
29 necessary for the accommodation of such parsonage.

30 *Eighth.* All real property, all buildings located on such property and all
31 personal property contained therein, actually and regularly used exclu-
32 sively by any individually chartered organization of honorably discharged
33 military veterans of the United States armed forces or auxiliary of any
34 such organization, which is exempt from federal income taxation pursuant
35 to section 501(c)(19) of the federal internal revenue code of 1986, for
36 clubhouse, place of meeting or memorial hall purposes, and real property
37 to the extent of not more than two acres, and all buildings located on
38 such property, actually and regularly used exclusively by any such veter-
39 ans' organization or its auxiliary as a memorial park.

40 *Ninth.* All real property and tangible personal property actually and
41 regularly used by a community service organization for the predominant
42 purpose of providing humanitarian services, which is owned and operated
43 by a corporation organized not for profit under the laws of the state of

1 Kansas or by a corporation organized not for profit under the laws of
2 another state and duly admitted to engage in business in this state as a
3 foreign not-for-profit corporation if: (a) The directors of such corporation
4 serve without pay for such services; (b) the corporation is operated in a
5 manner which does not result in the accrual of distributable profits, re-
6 alization of private gain resulting from the payment of compensation in
7 excess of a reasonable allowance for salary or other compensation for
8 services rendered or the realization of any other form of private gain; (c)
9 no officer, director or member of such corporation has any pecuniary
10 interest in the property for which exemption is claimed; (d) the corpo-
11 ration is organized for the purpose of providing humanitarian services;
12 (e) the actual use of property for which an exemption is claimed must be
13 substantially and predominantly related to the purpose of providing hu-
14 manitarian services, except that, the use of such property for a nonexempt
15 purpose which is minimal in scope and insubstantial in nature shall not
16 result in the loss of exemption if such use is incidental to the purpose of
17 providing humanitarian services by the corporation; (f) the corporation is
18 exempt from federal income taxation pursuant to section 501(c)(3) of the
19 internal revenue code of 1986 and; (g) contributions to the corporation
20 are deductible under the Kansas income tax act. As used in this clause,
21 “humanitarian services” means the conduct of activities which substan-
22 tially and predominantly meet a demonstrated community need and
23 which improve the physical, mental, social, cultural or spiritual welfare of
24 others or the relief, comfort or assistance of persons in distress or any
25 combination thereof including but not limited to health and recreation
26 services, child care, individual and family counseling, employment and
27 training programs for handicapped persons and meals or feeding pro-
28 grams. Notwithstanding any other provision of this clause, motor vehicles
29 shall not be exempt hereunder unless such vehicles are exclusively used
30 for the purposes described therein, except that the use of any such vehicle
31 for the purpose of participating in a coordinated transit district in ac-
32 cordance with the provisions of K.S.A. 75-5032 through 75-5037, and
33 amendments thereto, or K.S.A. 75-5051 through 75-5058, and amend-
34 ments thereto, shall be deemed as exclusive use. *Property used as resi-*
35 *dential housing facilities is not property used for the predominant purpose*
36 *of providing humanitarian services as provided pursuant to this*
37 *paragraph.*

38 *Tenth.* For all taxable years commencing after December 31, 1986, any
39 building, and the land upon which such building is located to the extent
40 necessary for the accommodation of such building, owned by a church or
41 nonprofit religious society or order which is exempt from federal income
42 taxation pursuant to section 501(c)(3) of the federal internal revenue code
43 of 1986, and actually and regularly occupied and used exclusively for

1 residential and religious purposes by a community of persons who are
2 bound by vows to a religious life and who conduct or assist in the conduct
3 of religious services and actually and regularly engage in religious, be-
4 nevolent, charitable or educational ministrations or the performance of
5 health care services.

6 *Eleventh.* For all taxable years commencing after December 31, 1998,
7 all property actually and regularly used predominantly to produce and
8 generate electricity utilizing renewable energy resources or technologies.
9 For purposes of this section, “renewable energy resources or technolo-
10 gies” shall include wind, solar, thermal, photovoltaic, biomass, hydro-
11 power, geothermal and landfill gas resources or technologies.

12 The provisions of this section, except as otherwise more specifically
13 provided, shall apply to all taxable years commencing after December 31,
14 1995.

15 Sec. 2. K.S.A. 2002 Supp. 79-201b is hereby amended to read as
16 follows: 79-201b. The following described property, to the extent herein
17 specified, shall be and is hereby exempt from all property or ad valorem
18 taxes levied under the laws of the state of Kansas:

19 *First.* All real property, and tangible personal property, actually and
20 regularly used exclusively for hospital purposes by a hospital as the same
21 is defined by K.S.A. 65-425, and amendments thereto, or a psychiatric
22 hospital as the same was defined by K.S.A. 59-2902, and amendments
23 thereto, as in effect on January 1, 1976, which hospital or psychiatric
24 hospital is operated by a corporation organized not for profit under the
25 laws of the state of Kansas or by a corporation organized not for profit
26 under the laws of another state and duly admitted to engage in business
27 in this state as a foreign, not-for-profit corporation, or a public hospital
28 authority; and all intangible property including moneys, notes and other
29 evidences of debt, and the income therefrom, belonging exclusively to
30 such a corporation and used exclusively for hospital, psychiatric hospital
31 or public hospital authority purposes. This exemption shall not be deemed
32 inapplicable to property which would otherwise be exempt pursuant to
33 this paragraph because any such hospital, psychiatric hospital or public
34 hospital authority: (a) Uses such property for a nonexempt purpose which
35 is minimal in scope and insubstantial in nature if such use is incidental to
36 the exempt purpose enumerated in this paragraph; or (b) is reimbursed
37 for the actual expense of using such property for the exempt purposes
38 enumerated in this paragraph or paragraph second of K.S.A. 79-201, and
39 amendments thereto; or (c) permits the use of such property for the
40 exempt purposes enumerated in this paragraph or paragraph second of
41 K.S.A. 79-201, and amendments thereto, by more than one agency or
42 organization for one or more of such purposes.

43 *Second.* All real property, and tangible personal property, actually and

1 regularly used exclusively for adult care home purposes by an adult care
2 home as the same is defined by K.S.A. 39-923, and amendments thereto,
3 which is operated by a corporation organized not for profit under the laws
4 of the state of Kansas or by a corporation organized not for profit under
5 the laws of another state and duly admitted to engage in business in this
6 state as a foreign, not-for-profit corporation, charges to residents for serv-
7 ices of which produce an amount which in the aggregate is less than the
8 actual cost of operation of the home or the services of which are provided
9 to residents at the lowest feasible cost, taking into consideration such
10 items as reasonable depreciation, interest on indebtedness, acquisition
11 costs, interest and other expenses of financing acquisition costs, lease
12 expenses and costs of services provided by a parent corporation at its costs
13 and contributions to which are deductible under the Kansas income tax
14 act; and all intangible property including moneys, notes and other evi-
15 dences of debt, and the income therefrom, belonging exclusively to such
16 corporation and used exclusively for adult care home purposes. For pur-
17 poses of this paragraph and for all taxable years commencing after De-
18 cember 31, 1976, an adult care home which uses its property in a manner
19 which is consistent with the federal internal revenue service ruling 72-
20 124 issued pursuant to section 501(c)(3) of the federal internal revenue
21 code, shall be deemed to be operating at the lowest feasible cost. The
22 fact that real property or real or tangible personal property may be leased
23 from a not-for-profit corporation, which is exempt from federal income
24 taxation pursuant to section 501(c)(3) of the internal revenue code of
25 1986, and amendments thereto, and which is the parent corporation to
26 the not-for-profit operator of an adult care home, shall not be grounds to
27 deny exemption or deny that such property is actually and regularly used
28 exclusively for adult care home purposes by an adult care home, nor shall
29 the terms of any such lease be grounds for any such denial. For all taxable
30 years commencing after December 31, 1995, such property shall be
31 deemed to be used exclusively for adult care home purposes when used
32 as a not-for-profit day care center for children which is licensed pursuant
33 to K.S.A. 65-501 *et seq.*, and amendments thereto.

34 *Third.* All real property, and tangible personal property, actually and
35 regularly used exclusively for private children's home purposes by a pri-
36 vate children's home as the same is defined by K.S.A. 75-3329, and
37 amendments thereto, which is operated by a corporation organized not
38 for profit under the laws of the state of Kansas or by a corporation or-
39 ganized not for profit under the laws of another state and duly admitted
40 to engage in business in this state as a foreign, not-for-profit corporation,
41 charges to residents for services of which produce an amount which in
42 the aggregate is less than the actual cost of operation of the home or the
43 services of which are provided to residents at the lowest feasible cost,

1 taking into consideration such items as reasonable depreciation and in-
2 terest on indebtedness, and contributions to which are deductible under
3 the Kansas income tax act; and all intangible property including moneys,
4 notes and other evidences of debt, and the income therefrom, belonging
5 exclusively to such a corporation and used exclusively for children's home
6 purposes.

7 *Fourth.* All real property and tangible personal property, actually and
8 regularly used exclusively for housing for elderly and handicapped per-
9 sons having a limited or lower income, or used exclusively for cooperative
10 housing for persons having a limited or low income, assistance for the
11 financing of which was received under 12 U.S.C.A. 1701 *et seq.*, or under
12 42 U.S.C.A. 1437 *et seq.*, which is operated by a corporation organized
13 not for profit under the laws of the state of Kansas or by a corporation
14 organized not for profit under the laws of another state and duly admitted
15 to engage in business in this state as a foreign, not-for-profit corporation;
16 and all intangible property including moneys, notes and other evidences
17 of debt, and the income therefrom, belonging exclusively to such a cor-
18 poration and used exclusively for the purposes of such housing. For the
19 purposes of this subsection, cooperative housing shall mean those not-
20 for-profit cooperative housing projects operating pursuant to sections 236
21 or 221(d)(3), or both, of the national housing act and which have been
22 approved as a cooperative housing project pursuant to applicable federal
23 housing administration and U.S. Department of Housing and Urban De-
24 velopment statutes, and rules and regulations, during such time as the
25 use of such properties are restricted pursuant to such act, statutes or rules
26 and regulations.

27 *Fifth.* All real property and tangible personal property, actually and
28 regularly used exclusively for housing for elderly persons, which is oper-
29 ated by a corporation organized not for profit under the laws of the state
30 of Kansas or by a corporation organized not for profit under the laws of
31 another state and duly admitted to engage in business in this state as a
32 foreign, not-for-profit corporation, in which charges to residents produce
33 an amount which in the aggregate is less than the actual cost of operation
34 of the housing facility or the services of which are provided to residents
35 at the lowest feasible cost, taking into consideration such items as rea-
36 sonable depreciation and interest on indebtedness and contributions to
37 which are deductible under the Kansas income tax act; and all intangible
38 property including moneys, notes and other evidences of debt, and the
39 income therefrom, belonging exclusively to such corporation and used
40 exclusively for the purpose of such housing. For purposes of this para-
41 graph and for all taxable years commencing after December 31, 1976, an
42 adult care home which uses its property in a manner which is consistent
43 with the federal internal revenue service ruling 72-124 issued pursuant

1 to section 501(c)(3) of the federal internal revenue code, shall be deemed
2 to be operating at the lowest feasible cost. For all taxable years com-
3 mencing after December 31, 1995, such property shall be deemed to be
4 used exclusively for housing for elderly persons purposes when used as a
5 not-for-profit day care center for children which is licensed pursuant to
6 K.S.A. 65-501 *et seq.*, and amendments thereto.

7 ~~The provisions of this subsection shall not apply to any taxable year~~
8 ~~commencing after December 31, 2005.~~

9 **For taxable years commencing after December 31, 2003, the pro-**
10 **visions of this paragraph shall not apply to detached living units**
11 **which are not located on the same contiguous property, excepting**
12 **roadways as defined by K.S.A. 8-1459 and amendments thereto, as**
13 **the main campus or facility used as provided by this paragraph by**
14 **the corporation.**

15 *Sixth.* All real property and tangible personal property actually and
16 regularly used exclusively for the purpose of group housing of mentally
17 ill or retarded and other handicapped persons which is operated by a
18 corporation organized not for profit under the laws of the state of Kansas
19 or by a corporation organized not for profit under the laws of another
20 state and duly admitted to engage in business in this state as a foreign,
21 not-for-profit corporation, in which charges to residents produce an
22 amount which in the aggregate is less than the actual cost of operation of
23 the housing facility or the services of which are provided to residents at
24 the lowest feasible cost, taking into consideration such items as reasonable
25 depreciation and interest on indebtedness and contributions to which are
26 deductible under the Kansas income tax act, and which is licensed as a
27 facility for the housing of mentally ill or retarded and other handicapped
28 persons under the provisions of K.S.A. 75-3307b, and amendments
29 thereto, or as a rooming or boarding house used as a facility for the
30 housing of mentally retarded and other handicapped persons which is
31 licensed as a lodging establishment under the provisions of K.S.A. 36-501
32 *et seq.*, and amendments thereto.

33 The provisions of this section, except as otherwise specifically provided,
34 shall apply to all taxable years commencing after December 31, 1998.

35 Sec. 3. K.S.A. 2002 Supp. 79-201 and 79-201b are hereby repealed.

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

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