

SENATE BILL No. 521

By Committee on Assessment and Taxation

2-12

10 AN ACT concerning property taxation; relating to exemptions; business
11 aircraft; **certain housing for elderly persons**; amending K.S.A. 79-
12 201k and **K.S.A. 2003 Supp. 79-201b** and repealing the existing sec-
13 ~~tion~~ **sections**.

14

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

16 **Section 1. K.S.A. 2003 Supp. 79-201b is hereby amended to**
17 **read as follows: 79-201b. The following described property, to the**
18 **extent herein specified, shall be and is hereby exempt from all prop-**
19 **erty or ad valorem taxes levied under the laws of the state of Kansas:**

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

1 *79-201, and amendments thereto, by more than one agency or or-*
2 *ganization for one or more of such purposes.*

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

40 *Third. All real property, and tangible personal property, actually*
41 *and regularly used exclusively for private children's home purposes*
42 *by a private children's home as the same is defined by K.S.A. 75-*
43 *3329, and amendments thereto, which is operated by a corporation*

1 *organized not for profit under the laws of the state of Kansas or by*
2 *a corporation organized not for profit under the laws of another*
3 *state and duly admitted to engage in business in this state as a for-*
4 *foreign, not-for-profit corporation, charges to residents for services of*
5 *which produce an amount which in the aggregate is less than the*
6 *actual cost of operation of the home or the services of which are*
7 *provided to residents at the lowest feasible cost, taking into consid-*
8 *eration such items as reasonable depreciation and interest on in-*
9 *debtedness, and contributions to which are deductible under the*
10 *Kansas income tax act; and all intangible property including mon-*
11 *neys, notes and other evidences of debt, and the income therefrom,*
12 *belonging exclusively to such a corporation and used exclusively for*
13 *children's home purposes.*

14 *Fourth. All real property and tangible personal property, actually*
15 *and regularly used exclusively for housing for elderly and handi-*
16 *capped persons having a limited or lower income, or used exclu-*
17 *sively for cooperative housing for persons having a limited or low*
18 *income, assistance for the financing of which was received under 12*
19 *U.S.C.A. 1701 et seq., or under 42 U.S.C.A. 1437 et seq., which is*
20 *operated by a corporation organized not for profit under the laws*
21 *of the state of Kansas or by a corporation organized not for profit*
22 *under the laws of another state and duly admitted to engage in*
23 *business in this state as a foreign, not-for-profit corporation; and*
24 *all intangible property including moneys, notes and other evidences*
25 *of debt, and the income therefrom, belonging exclusively to such a*
26 *corporation and used exclusively for the purposes of such housing.*
27 *For the purposes of this subsection, cooperative housing shall mean*
28 *those not-for-profit cooperative housing projects operating or*
29 *established pursuant to sections 236 or 221(d)(3), or both, of the*
30 *national housing act and which have been approved as a coopera-*
31 *tive housing project pursuant to applicable federal housing admin-*
32 *istration and U.S. Department of Housing and Urban Development*
33 *statutes, and rules and regulations, during such time as the use of*
34 *such properties are: (1) Restricted pursuant to such act, statutes or*
35 *rules and regulations thereof; or (2) subject to affordability financing*
36 *standards established pursuant to the national housing act during such*
37 *time that such not-for-profit corporation has adopted articles of incor-*
38 *poration or by-laws, or both, requiring such corporation to continue to*
39 *operate in compliance with the United States department of housing and*
40 *urban development affordability income guidelines established pursuant*
41 *to sections 236 or 221(d)(3) of the national housing act or rules and reg-*
42 *ulations thereof.*

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

1 *and regularly used exclusively for housing for elderly persons,*
2 *which is operated by a corporation organized not for profit under*
3 *the laws of the state of Kansas or by a corporation organized not*
4 *for profit under the laws of another state and duly admitted to en-*
5 *gage in business in this state as a foreign, not-for-profit corporation,*
6 *in which charges to residents produce an amount which in the ag-*
7 *gregate is less than the actual cost of operation of the housing fa-*
8 *ility or the services of which are provided to residents at the lowest*
9 *feasible cost, taking into consideration such items as reasonable*
10 *depreciation and interest on indebtedness and contributions to*
11 *which are deductible under the Kansas income tax act; and all in-*
12 *tangible property including moneys, notes and other evidences of*
13 *debt, and the income therefrom, belonging exclusively to such cor-*
14 *poration and used exclusively for the purpose of such housing. For*
15 *purposes of this paragraph and for all taxable years commencing*
16 *after December 31, 1976, an adult care home which uses its prop-*
17 *erty in a manner which is consistent with the federal internal re-*
18 *venue service ruling 72-124 issued pursuant to section 501(c)(3) of*
19 *the federal internal revenue code, shall be deemed to be operating*
20 *at the lowest feasible cost. For all taxable years commencing after*
21 *December 31, 1995, such property shall be deemed to be used ex-*
22 *clusively for housing for elderly persons purposes when used as a*
23 *not-for-profit day care center for children which is licensed pur-*
24 *suant to K.S.A. 65-501 et seq., and amendments thereto.*

25 *Sixth. All real property and tangible personal property actually*
26 *and regularly used exclusively for the purpose of group housing of*
27 *mentally ill or retarded and other handicapped persons which is*
28 *operated by a corporation organized not for profit under the laws*
29 *of the state of Kansas or by a corporation organized not for profit*
30 *under the laws of another state and duly admitted to engage in*
31 *business in this state as a foreign, not-for-profit corporation, in*
32 *which charges to residents produce an amount which in the aggre-*
33 *gate is less than the actual cost of operation of the housing facility*
34 *or the services of which are provided to residents at the lowest fea-*
35 *sible cost, taking into consideration such items as reasonable de-*
36 *preciation and interest on indebtedness and contributions to which*
37 *are deductible under the Kansas income tax act, and which is li-*
38 *censed as a facility for the housing of mentally ill or retarded and*
39 *other handicapped persons under the provisions of K.S.A. 75-3307b,*
40 *and amendments thereto, or as a rooming or boarding house used*
41 *as a facility for the housing of mentally retarded and other handi-*
42 *capped persons which is licensed as a lodging establishment under*
43 *the provisions of K.S.A. 36-501 et seq., and amendments thereto.*

1 *The provisions of this section, except as otherwise specifically*
2 *provided, shall apply to all taxable years commencing after Decem-*
3 *ber 31, 1998.*

4 Section ~~±~~ **2.** K.S.A. 79-201k is hereby amended to read as follows:
5 79-201k. (a) It is the purpose of this section to promote, stimulate and
6 develop the general welfare, economic development and prosperity of
7 the state of Kansas by fostering the growth of commerce within the state;
8 to encourage the location of new business and industry in this state and
9 the expansion, relocation or retention of existing business and industry
10 when so doing will help maintain or increase the level of commerce within
11 the state; and to promote the economic stability of the state by maintain-
12 ing and providing employment opportunities, thus promoting the general
13 welfare of the citizens of this state, by exempting aircraft used in business
14 and industry, from imposition of the property tax or other ad valorem tax
15 imposed by this state or its taxing subdivisions. Kansas has long been a
16 leader in the manufacture and use of aircraft and the use of aircraft in
17 business and industry is vital to the continued economic growth of the
18 state.

19 (b) The following described property, to the extent herein specified,
20 is hereby exempt from all property or ad valorem taxes levied under the
21 laws of the state of Kansas:

22 *First.* For all taxable years commencing after December 31, ~~1992~~
23 **1999**, all aircraft ~~actually and regularly used exclusively~~ **predominantly**
24 to earn income for the owner in the conduct of the owner's business or
25 industry. **If the owner's business or industry is the leasing of aircraft,**
26 **the lessee's use of the aircraft shall not be considered in determining**
27 **this exemption. For purposes of this provision, "predominantly"**
28 **means: (1) At least 80% of the total use of the aircraft; or (2) utili-**
29 **zation of the aircraft such that all of the aircraft costs are deductible**
30 **for federal income tax purposes.**

31 ~~*Second.* All aircraft purchased prior to July 1, 2004, and exempt from~~
32 ~~*all property or ad valorem taxes pursuant to paragraph First of this sub-*~~
33 ~~*section, where a renter's or lessee's nonbusiness use was not a disquali-*~~
34 ~~*fying use, shall remain exempt until such time as the aircraft is sold or*~~
35 ~~*otherwise disposed of by the owner thereof.*~~

36 Sec. ~~2~~ **3.** K.S.A. 79-201k is ~~and K.S.A. 2003 Supp. 79-201b are~~
37 hereby repealed.

38 Sec. ~~3~~ **4.** This act shall take effect and be in force from and after its
39 publication in the statute book.