

## Substitute for HOUSE BILL No. 2430

By Committee on Taxation

3-14

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9 AN ACT concerning taxation; relating to homestead property tax re-  
10 funds; amending K.S.A. 79-4509 and 79-4511 and K.S.A. 2006 Supp.  
11 79-4502 and 79-4504 and repealing the existing sections.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. A person owning or occupying a homestead that is  
15 not rental property and for which the appraised valuation for property  
16 tax purposes exceeds \$350,000 in any year shall not be entitled to claim  
17 a refund of property taxes under the homestead property tax refund act  
18 for any such year. The provisions of this section shall be part of and  
19 supplemental to the homestead property tax refund act. The provisions  
20 of this section shall expire on June 30, 2012.

21 New Sec. 2. If there are delinquent property taxes on the claimant's  
22 homestead, the refund shall be paid to the county treasurer of the county  
23 in which such homestead is located and applied first to the oldest of such  
24 delinquent property taxes and applied forward to the most recent delin-  
25 quent property taxes and then to any other property taxes due on the  
26 claimant's homestead. The provisions of this section shall be part of and  
27 supplemental to the homestead property tax refund act.

28 New Sec. 3. The provisions of K.S.A. 79-4501 through 79-4517, 79-  
29 4519, 79-4521, 79-4530 and 79-4531, section 1 and section 2, and amend-  
30 ments thereto, shall expire on June 30, 2012.

31 Sec. 4. K.S.A. 2006 Supp. 79-4502 is hereby amended to read as  
32 follows: 79-4502. As used in this act, unless the context clearly indicates  
33 otherwise:

34 (a) "Income" means the sum of adjusted gross income under the  
35 Kansas income tax act, maintenance, support money, cash public assis-  
36 tance and relief, not including any refund granted under this act, the gross  
37 amount of any pension or annuity, including all monetary retirement ben-  
38 efits from whatever source derived, including but not limited to, all pay-  
39 ments received under the railroad retirement act, except disability pay-  
40 ments and all payments received under the federal social security act  
41 ~~except disability payments~~, all dividends and interest from whatever  
42 source derived not included in adjusted gross income, workers compen-  
43 sation and the gross amount of "loss of time" insurance. Income does not

1 include gifts from nongovernmental sources or surplus food or other relief  
2 in kind supplied by a governmental agency, nor shall net operating losses  
3 and net capital losses be considered in the determination of income. In-  
4 come does not include veterans disability pensions. *Income does not in-*  
5 *clude payments received under the federal social security act.*

6 (b) "Household" means a claimant, a claimant and spouse who oc-  
7 cupy the homestead or a claimant and one or more individuals not related  
8 as husband and wife who together occupy a homestead.

9 (c) "Household income" means all income received by all persons of  
10 a household in a calendar year while members of such household.

11 (d) "Homestead" means the dwelling, or any part thereof, whether  
12 owned or rented, which is occupied as a residence by the household and  
13 so much of the land surrounding it, as defined as a home site for ad-  
14 valorem tax purposes, and may consist of a part of a multi-dwelling or  
15 multi-purpose building and a part of the land upon which it is built or a  
16 manufactured home or mobile home and the land upon which it is situ-  
17 ated. "Owned" includes a vendee in possession under a land contract, a  
18 life tenant, a beneficiary under a trust and one or more joint tenants or  
19 tenants in common.

20 (e) "Claimant" means a person who has filed a claim under the pro-  
21 visions of this act and was, during the entire calendar year preceding the  
22 year in which such claim was filed for refund under this act, except as  
23 provided in K.S.A. 79-4503, and amendments thereto, both domiciled in  
24 this state and was: (1) A person having a disability; (2) a person who is 55  
25 years of age or older or (3) a person other than a person included under  
26 (1) or (2) having one or more dependent children under 18 years of age  
27 residing at the person's homestead during the calendar year immediately  
28 preceding the year in which a claim is filed under this act.

29 When a homestead is occupied by two or more individuals and more  
30 than one of the individuals is able to qualify as a claimant, the individuals  
31 may determine between them as to whom the claimant will be. If they  
32 are unable to agree, the matter shall be referred to the secretary of rev-  
33 enue whose decision shall be final.

34 (f) "Property taxes accrued" means property taxes, exclusive of special  
35 assessments, delinquent interest and charges for service, levied on a  
36 claimant's homestead in 1979 or any calendar year thereafter by the state  
37 of Kansas and the political and taxing subdivisions of the state. When a  
38 homestead is owned by two or more persons or entities as joint tenants  
39 or tenants in common and one or more of the persons or entities is not  
40 a member of claimant's household, "property taxes accrued" is that part  
41 of property taxes levied on the homestead that reflects the ownership  
42 percentage of the claimant's household. For purposes of this act, property  
43 taxes are "levied" when the tax roll is delivered to the local treasurer with

1 the treasurer's warrant for collection. When a claimant and household  
2 own their homestead part of a calendar year, "property taxes accrued"  
3 means only taxes levied on the homestead when both owned and occupied  
4 as a homestead by the claimant's household at the time of the levy, mul-  
5 tiplied by the percentage of 12 months that the property was owned and  
6 occupied by the household as its homestead in the year. When a house-  
7 hold owns and occupies two or more different homesteads in the same  
8 calendar year, property taxes accrued shall be the sum of the taxes allo-  
9 cable to those several properties while occupied by the household as its  
10 homestead during the year. Whenever a homestead is an integral part of  
11 a larger unit such as a multi-purpose or multi-dwelling building, property  
12 taxes accrued shall be that percentage of the total property taxes accrued  
13 as the value of the homestead is of the total value. For the purpose of  
14 this act, the word "unit" refers to that parcel of property covered by a  
15 single tax statement of which the homestead is a part.

16 (g) "Disability" means:

17 (1) Inability to engage in any substantial gainful activity by reason of  
18 any medically determinable physical or mental impairment which can be  
19 expected to result in death or has lasted or can be expected to last for a  
20 continuous period of not less than 12 months, and an individual shall be  
21 determined to be under a disability only if the physical or mental im-  
22 pairment or impairments are of such severity that the individual is not  
23 only unable to do the individual's previous work but cannot, considering  
24 age, education and work experience, engage in any other kind of sub-  
25 stantial gainful work which exists in the national economy, regardless of  
26 whether such work exists in the immediate area in which the individual  
27 lives or whether a specific job vacancy exists for the individual, or whether  
28 the individual would be hired if application was made for work. For pur-  
29 poses of the preceding sentence (with respect to any individual), "work  
30 which exists in the national economy" means work which exists in signif-  
31 icant numbers either in the region where the individual lives or in several  
32 regions of the country; for purposes of this subsection, a "physical or  
33 mental impairment" is an impairment that results from anatomical, physi-  
34 ological or psychological abnormalities which are demonstrable by medi-  
35 cally acceptable clinical and laboratory diagnostic techniques; or

36 (2) blindness and inability by reason of blindness to engage in sub-  
37 stantial gainful activity requiring skills or abilities comparable to those of  
38 any gainful activity in which the individual has previously engaged with  
39 some regularity and over a substantial period of time.

40 (h) "Blindness" means central visual acuity of  $\frac{20}{200}$  or less in the bet-  
41 ter eye with the use of a correcting lens. An eye which is accompanied  
42 by a limitation in the fields of vision such that the widest diameter of the  
43 visual field subtends an angle no greater than 20 degrees shall be consid-

1 ered for the purpose of this paragraph as having a central visual acuity of  
2 <sup>20</sup>/<sub>200</sub> or less.

3 (i) “Rent constituting property taxes accrued” means ~~20%~~ 15% of the  
4 gross rent actually paid in cash or its equivalent in ~~1979~~ 2007 or any  
5 taxable year thereafter by a claimant and claimant’s household solely for  
6 the right of occupancy of a Kansas homestead on which ad valorem prop-  
7 erty taxes were levied in full for that year. When a household occupies  
8 two or more different homesteads in the same calendar year, rent con-  
9 stituting property taxes accrued shall be computed by adding the rent  
10 constituting property taxes accrued for each property rented by the  
11 household while occupied by the household as its homestead during the  
12 year.

13 (j) “Gross rent” means the rental paid at arm’s length solely for the  
14 right of occupancy of a homestead or space rental paid to a landlord for  
15 the parking of a mobile home, exclusive of charges for any utilities, serv-  
16 ices, furniture and furnishings or personal property appliances furnished  
17 by the landlord as a part of the rental agreement, whether or not expressly  
18 set out in the rental agreement. Whenever the director of taxation finds  
19 that the landlord and tenant have not dealt with each other at arms length  
20 and that the gross rent charge was excessive, the director may adjust the  
21 gross rent to a reasonable amount for the purposes of the claim.

22 Sec. 5. K.S.A. 2006 Supp. 79-4504 is hereby amended to read as  
23 follows: 79-4504. Subject to the limitations provided in this act or the  
24 provisions of K.S.A. 79-4530, and amendments thereto, as the case re-  
25 quires, a claimant may claim property tax relief under the homestead  
26 property tax refund act or the provisions of K.S.A. 79-4530, and amend-  
27 ments thereto, with respect to property taxes accrued, and after audit by  
28 the division of taxation with respect to homestead property tax refund  
29 act, the allowable amount of such claim shall be paid, except as otherwise  
30 provided in K.S.A. 79-4506, 79-4521 *and section 2, and amendments*  
31 *thereto*, to the claimant from the income tax refund fund upon warrants  
32 of the director of accounts and reports pursuant to vouchers approved by  
33 the director of taxation or by any person designated by the claimant, but  
34 no warrant issued hereunder shall be drawn in an amount of less than  
35 \$5. No interest shall be allowed on any payment made to a claimant  
36 pursuant to this act.

37 Sec. 6. K.S.A. 79-4509 is hereby amended to read as follows: 79-  
38 4509. In the event property taxes accrued, rent constituting property taxes  
39 accrued or their sum exceeds ~~\$600~~ \$750 for a household in any one year,  
40 the amount thereof shall, for purposes of this act, be deemed to have  
41 been ~~\$600~~ \$750.

42 Sec. 7. K.S.A. 79-4511 is hereby amended to read as follows: 79-  
43 4511. (a) Every claimant under this act shall supply to the division, in

1 support of a claim, reasonable proof of age or disability, and changes of  
2 homestead, household membership, household income, and size and na-  
3 ture of property claimed as the homestead. A claim alleging disability  
4 shall be supported by a report of the examining physician of the claimant  
5 with a statement or certificate that the applicant has a disability within  
6 the meaning of subsection (g) of K.S.A. 79-4502 and amendments  
7 thereto.

8 (b) Every claimant who is a homestead owner, or whose claim is  
9 based wholly or partly upon homestead ownership at some time during  
10 the calendar year, shall supply to the division, in support of a claim, ~~a~~  
11 ~~copy of the statement~~ *the amount* of property taxes levied upon the prop-  
12 erty claimed as a homestead and a statement that the property taxes ac-  
13 crued used for purposes of this act have been or will be paid by the  
14 claimant ~~and that there are no delinquent property taxes on the home-~~  
15 ~~stead.~~ *Upon request by the division, such claimant shall provide a copy*  
16 *of the statement of property taxes levied upon the property claimed as a*  
17 *homestead.* The amount of personal property taxes levied on a manufac-  
18 tured home or mobile home shall be set out on the personal property tax  
19 statement showing the amount of such tax as a separate item.

20 (c) Every claimant who is a homestead renter, or whose claim is based  
21 wholly or partly upon homestead rental at some time during the calendar  
22 year, shall supply to the division, in support of a claim, a statement pre-  
23 scribed by the director certifying the amount of gross rent paid and that  
24 ad valorem property taxes were levied in full for that year on the property,  
25 all or a part of which was rented by the claimant. *When such claimant*  
26 *reports household income that is 150% or less of the homestead rental*  
27 *amount and such claimant has failed to provide any documentation or*  
28 *information requested by the division to verify such household income in*  
29 *support of a claim as required pursuant to subsection (a), within 30 days*  
30 *of such request, such homestead property tax refund claim shall be denied.*

31 (d) The information required to be furnished under subsections (b)  
32 or (c) shall be in addition to that required under subsection (a).

33 Sec. 8. K.S.A. 79-4509 and 79-4511 and K.S.A. 2006 Supp. 79-4502  
34 and 79-4504 are hereby repealed.

35 Sec. 9. This act shall take effect and be in force from and after its  
36 publication in the statute book.