

Approved May 7, 1992

Minutes of the House Committee on Taxation. The meeting was called to order by Joan Wagnon, Chairperson, at 9:10 a.m. on Friday, March 27, 1992 in room 519-S of the Capitol.

All members were present except:

Rep. Jim Lowther, excused; Rep. Joan Adam, excused; Rep. J. C. Long, excused.

Committee staff present:

Tom Severn & Chris Courtwright, Legislative Research; Bill Edds and Don Hayward, Revisors; Linda Frey, Committee Secretary; Douglas E. Johnston, Committee Assistant.

Conferees appearing before the committee

The Chair brought up HB 3037 for discussion and action.

Rep. Gwen Welshimer explained proposed changes to HB 3037 (Attachment 1). The objection to registering tax preparers was addressed by removing that requirement. The penalties for a false filing were increased, but it remains a civil penalty. The preparer has to sign it and false statements are subject to perjury laws.

Rep. Welshimer moved that HB 3037 be amended as described. Rep. Bruce Larkin seconded the motion.

Rep. Vince Snowbarger moved to amend the motion by deleting the language on line 3 that reads "Prosecutions under this section shall be mandatory and not discretionary." Rep. Kent Glasscock seconded the motion which carried.

The motion to amend HB 3037 with the proposal by Rep. Welshimer carried.

Rep. Welshimer moved and Rep. Grotewiel seconded to recommend HB 3037 favorable for passage as amended. The motion carried.

The Chair brought up SB 657 for discussion. Bill Edds, Revisor, explained an amendment to the bill (Attachment 2). In answer to a question from Rep. Bill Reardon, Edds stated the clerks have the responsibility to help people fill out the Homestead refund forms. The Chair said county treasurers were concerned about determining eligibility, so this has been transferred to the county clerks.

The Chair noted there are three parts to the amendment and that they should be voted on separately. She divided the question into these parts: (1) allowing the assignment of the Homestead refund for paying property taxes; (2) increasing the refund; (3) the

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Taxation, room 519-S, State-house, at 9:10 a.m. on Friday, March 27, 1992.

property tax deferral program (HB 3024).

Rep. Welshimer asked if county treasurers had any objections. The Chair said they are divided. Rep. Aldie Ensminger questioned whether county clerks are happy with this.

Rep. Snowbarger moved and Rep. Marvin Simth seconded that part 1 of the amendment, the credit on the homestead, be adopted. The motion carried.

Rep. Grotewiel moved and Rep. Larkin seconded to adopt the increase from \$500 to \$600 on page 4. The motion carried.

Rep. Snowbarger moved and Rep. Roe seconded that we adopt the third part of the balloon amendment the property tax deferral program, which was HB 3024 and all the other renumbering of the sections.

Rep. Smith, cosponsor of HB 3024, inquired if HB 3024 could not stand on its own merit. The Chair replied that it could, but putting it into this bill would be faster.

The motion to adopt the third part of the amendment was withdrawn with the consent of the second.

Rep. Ensminger moved and Rep. Welshimer seconded that SB 657 be passed favorably as amended.

Rep. Vancrum suggested that HB 2944 be amended into this bill. The Chair stated she would rather it be put into another bill and that there would be opportunity to do so.

The motion to pass SB 647 favorably as amended carried. Rep. Jo Ann Pottorff voted no.

The Chair brought up HB 2845, the property tax abatement bill, and offered a proposed substitute for HB 2845 (Attachment 3). Rep. Welshimer spoke against this proposal as it picks on only a part of industry in Kansas and does not include agriculture.

Rep. Roe moved and Rep. Betty Jo Charlton seconded to adopt this as a substitute bill. After some discussion about dividing out section 1 of the bill, it was decided to meet at 7:30 a.m. on March 30 to continue the discussion.

The meeting was adjourned at 10:00 a.m. The next meeting will be March 30 at 7:30 a.m.

GUEST LIST

COMMITTEE:

House of Representatives

DATE:

3/27/92

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Alan Steppat	Topeka	Pete McGill & Associates
HAROLD P. RITS	"	AARP C C T F
R. Lipsey	"	AP
Art Brown	KC.	KS LSA Dealer ASTA
DVD GRANT	TOPEKA	KCCI
Marvin Emery	Topeka	Emery Co.
James W. Zeman	Topeka	AARP C C T F
George Duggs	"	Aging
Mark Tallman	Topeka	KASB
Dan Haas	Overland Park	KCPK
Chuck Storn	Topeka	KBA
John Petersen	Topeka	Beech Aircraft
Chris Young	Topeka	Topeka Chamber
Bernie Koch	Wichita	Wichita Chamber
Cal Vanto	Topeka	KDRC
Bob Corkins	"	KCCI
Jacque Oates	TOPEKA	SQE
Chris McKenzie	"	League of Ks. Mun.
Cathy Hardeman	Wichita	City of Wichita
Mary Ellen Conlee	Wichita	Ks Assoc for Small Business
Steno Jones	Wich	Boeing
John Kovanic	Crawford County	Treasurer
Mary S. Pedersen	Wyn. County	Treasurer
Tom E. O'Brien	Alfalfa	Treasurer

HOUSE BILL No. 3037

AN ACT relating to the taxation of personal property; requiring registration of personal property tax rendition form preparers; providing for the regulation of the conduct thereof; providing civil penalties for violations; making certain acts unlawful and providing criminal penalties for violations; amending K.S.A. 79-306 and repealing the existing section.

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

New Section 1. As used in this act:

(a) "person" means any individual, firm, partnership, joint adventure, association or corporation.

(b) "Personal property tax rendition form" means any list, schedule or statement required to be furnished pursuant to article 3 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, disclosing personal property of a taxpayer.

(c) "Personal property tax rendition form preparer" means any person who prepares or assists in preparation for compensation, or who employs one or more persons to prepare or assist in preparation for compensation, any personal property tax rendition form. A person shall not be a personal property tax rendition form preparer merely because such person: (1) Furnishes typing, reproducing or other mechanical assistance, or (2) prepares a rendition of the employer by who such person is regularly and continually employed.

(d) "Taxpayer" means any person contracting with a personal property tax rendition form preparer to prepare a personal property tax rendition form on such person's behalf or to assist in the preparation of such form.

~~New Sec. 2. No personal property tax rendition form preparer shall engage in the preparation of any personal property tax rendition form, or assist in the preparation thereof, unless such person is registered in accordance with the provisions of this act.~~

~~New Sec. 3. Application for registration as a personal property tax rendition form preparer shall be made to the director of property valuation on forms approved by the secretary of revenue. At the time of filing an application for registration, each applicant shall sign a statement agreeing to comply with the standards set forth in this act and rules and regulations adopted thereunder and all requirements of state law relating to the listing of personal property for purposes of taxation and stating that the applicant understands~~

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~~the types of misconduct for which penalties may be invoked as set forth in this act.~~

Sec. 4[2]. K.S.A. 79-306 is hereby amended to read as follows: 79-306. On or before March 4 [15] of each year, or the next following business day if such date falls on a day other than a regular business day, every person, ~~except a corporation, domestic or foreign, in which case the filing date shall be on or before April 1, or the next following business day if such date falls on a day other than a regular business day,~~ [association, company or corporation] required by this act to list property shall make and [personally] sign a statement [under penalties of perjury] listing all tangible personal property which by this act such person is required to list, either as the owner thereof, or as parent, guardian, trustee, executor, administrator, receiver, accounting officer, partner or agent, as the case may be, and deliver the same to the county appraiser of the county where such property has its situs for the purposes of taxation. *In addition to the foregoing requirements, any such statement prepared by a personal property tax rendition form preparer shall be certified as true and correct by such preparer's signature [under penalties of perjury] and registration number. Any preparer who prepares a statement hereunder for any taxpayer shall furnish a completed copy thereof to the taxpayer not later than the time such statement is presented for such taxpayer's signature.*

~~New Sec. 5. In addition to any other remedy or penalty provided under this act or other state statute, the director of property valuation may impose a civil penalty of not to exceed \$1,000 against any personal property tax rendition form preparer who willfully fails to disclose any personal property taxable under the laws of this state or attempts to understate the value of any such property or who recklessly or intentionally disregards any provision of this act or any other state statute relating to the taxation of personal property. Any such preparer may request a hearing on such penalty before the board of tax appeals in accordance with the provisions of the administrative procedure act. If at any time there is a final administrative determination or a final judicial decision that there was no such violation with respect to which a penalty has been imposed, such penalty shall be abated, and if any portion of such penalty has been paid, the amount so paid shall be refunded.~~

{New Sec. 3. K.S.A. 79-1420 is hereby amended to read as follows: 79-1420. If any person[, association, company,] or corporation [or personal property tax rendition form preparer] shall knowingly give a false or fraudulent list, schedule or statement[, or shall willfully fail to disclose any personal

property taxable under the laws of this state, or shall understate the value of any property taxable under the laws of this state] required ~~by this act~~, or shall fail or refuse to deliver to the ~~assessor~~ [county or district appraiser] when called upon for that purpose, a list of the taxable property which under [the laws of this state] this ~~act~~ is required to be listed, or shall temporarily convert any part of such property into property not taxable or shall remove such property from the county or state for the fraudulent purpose of preventing such property from being listed, or of evading the payment of taxes thereon, or shall transfer or transmit any property to any person with such intent, he or she or it shall be guilty of a misdemeanor, and subject to a fine of not less than ~~fifty~~ [one thousand] dollars ~~(\$50)~~ [\$1,000] nor more than five thousand dollars (\$5,000). Prosecutions under this act shall be brought by the county [or district] attorney [or county counselor] in the district court of the proper county, upon [the verified] complaint ~~made by any~~ [of the] director of property valuation or [the] county [or district appraiser] assessor. A ~~fee of twenty five (\$25) shall be taxed as costs in each case in which a conviction is had.~~ Executions may be issued for the collection of all fines and cost imposed under the provisions of this act. [Prosecutions under this section shall be mandatory and not discretionary.]}

~~New Sec. 6. A civil action to enjoin any personal property tax rendition form preparer from further engaging in any conduct proscribed by this act may be commenced in the district court of the proper county by the county or district attorney at the request of the director of property valuation. The court may exercise its jurisdiction over such action separate and apart from any other action brought by the state against such person or any taxpayer.~~

~~New Sec. 7. If any personal property tax rendition form preparer shall knowingly prepare a false or fraudulent personal property tax rendition form, such person shall be guilty of a class D felony upon conviction thereof. Prosecutions under this act shall be brought by the county or district attorney in the district court of the property county upon complaint made by the director of property valuation or any county appraiser.~~

~~Sec. 8[4]. K.S.A. 79-306 [and K.S.A. 79-1420 are] is hereby repealed.~~

~~Sec. 9[5]. This act shall take effect and be in force from and after its publication in the statute book.~~

SENATE BILL No. 657

By Senators Thiessen, Bond, Burke, Ehrlich,
Frahm, Langworthy, Montgomery, Oleen and Webb

2-12

providing for a program of property tax deferral on
homesteads for certain persons;

certain amounts

9 AN ACT relating to property taxation; providing for the assignment
10 of homestead property tax refund claims to counties in lieu of
11 payment of taxes on homesteads; amending K.S.A. 79-4504, and
12 K.S.A. 1991 Supp. 79-2004 and repealing the existing sections.

increasing the maximum amount of refund allowable;

and 79-4509

13
14 *Be it enacted by the Legislature of the State of Kansas:*

. 18

15 New Section 1. (a) Beginning in 1992 and in each succeeding
16 year, any person who owns a homestead, as defined by K.S.A. 79-
17 4502, and amendments thereto, and who will be entitled ~~in the~~
18 ~~succeeding calendar year~~ to claim a refund under the provisions of
19 article 45 of chapter 79 of the Kansas Statutes Annotated, may make
20 application to the county ~~treasurer~~ of the county in which the home-
21 stead is located for a certificate of eligibility for such refund on or
22 before the time prescribed for the payment of the first half of taxes
23 levied on such homestead in the current year in lieu of paying ~~up~~
24 ~~to \$500~~ of such taxes. Any person making application for a certificate
25 of eligibility for such refund shall pay 1/2 of the taxes levied on the
26 homestead ~~in excess of \$500~~ in such year at the time of making such
27 application. Any person making an application shall present such
28 proof as to eligibility for the refund ~~in the succeeding calendar year~~
29 as prescribed in rules and regulations adopted by the secretary of
30 revenue. If the county ~~treasurer~~ is satisfied that such person will be
31 eligible for a refund, the county ~~treasurer~~ shall make out a certificate
32 of eligibility for such person on a form prescribed by the secretary
33 of revenue. The certificate shall be signed by the county ~~treasurer~~
34 and the person making application therefor. An eligible applicant
35 shall also assign, in a space provided on the certificate, the refund
36 to the county to pay the taxes on the applicant's homestead for the
37 year in which such application is made.

of property taxes

clerk

and present such certificate to the county treasurer

that portion

which equals the amount of the homestead property
tax refund received by the claimant for taxes
levied in the preceding year

presenting

to the county treasurer

in excess of the amount of the homestead property
tax refund received for taxes levied in the
preceding year

clerk

38 (b) The county treasurer shall send daily a copy of each certificate
39 of eligibility to the director of taxation. After receiving a claim of
40 any claimant who has obtained a certificate of eligibility under this
41 section, the director shall examine the same, and if the claim is
42 valid, the director of accounts and reports shall draw a warrant in

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1 a voucher approved by the director of taxation in the amount of the
 2 allowable claim for refund. Sufficient information to identify the
 3 claimant shall be directed to the county treasurer with each warrant.
 4 Any taxes levied in any year on the homestead of any claimant who
 5 has obtained the certificate of eligibility herein provided for in excess
 6 of the amount paid to the county by the state and by the claimant
 7 on or before December 20 of such year shall be paid by the claimant
 8 on or before June 20 of the succeeding year.

9 Sec. ~~2~~ K.S.A. 1991 Supp. 79-2004 is hereby amended to read 19
 10 as follows: 79-2004. (a) Except as provided by subsection (d) section
 11 1, any person charged with real property taxes on the tax books in
 12 the hands of the county treasurer may pay, at such person's option,
 13 the full amount thereof on or before December 20 of each year, or
 14 1/2 thereof on or before December 20 and the remaining 1/2 on or
 15 before June 20 next ensuing. If the full amount of the real property
 16 taxes listed upon any tax statement is \$10 or less the entire amount
 17 of such tax shall be due and payable on or before December 20.

18 In case the first half of the real property taxes remains unpaid
 19 after December 20, the first half of the tax shall draw interest at
 20 the rate per annum prescribed by subsection (b) of K.S.A. 79-2968,
 21 and amendments thereto, and may be paid at any time prior to June
 22 20 following by paying 1/2 of tax together with interest at such rate
 23 from December 20 to date of payment. All real property taxes of
 24 the preceding year and accrued interest thereon which remain due
 25 and unpaid on June 21 shall accrue interest at the rate per annum
 26 prescribed by subsection (b) of K.S.A. 79-2968, and amendments
 27 thereto, from June 20 until paid, or until the real property is sold
 28 for taxes by foreclosure as provided by law. Except as provided by
 29 subsection (c), all interest herein provided shall be credited to the
 30 county general fund, and whenever any such interest is paid the
 31 county treasurer shall enter the amount of interest so paid on the
 32 tax rolls in the proper column and account for such sum.

33 (b) Whenever any date prescribed in subsection (a) for the pay-
 34 ment of real property taxes occurs on a Saturday or Sunday, such
 35 date for payment shall be extended until the next-following regular
 36 business day of the office of the county treasurer.

37 (c) The board of county commissioners may enter into an agree-
 38 ment with the governing body of any city located in the county for
 39 the distribution of part or all of the interest paid on special assess-
 40 ments levied by the city which remain unpaid.

41 (d) ~~(1)~~ With respect to property tax levied upon real prop-
 42 erty in 1989, and in lieu of the provisions prescribed in sub-
 43 section (a) any person may pay the full amount of such tax on

1 before January 16, 1990, or 1/2 thereof on or before January 16,
 2 1990, and the remaining 1/2 on or before June 20, 1990. With
 3 respect to property tax levied upon real property in 1989, the
 4 valuation of which is the subject of a protest pursuant to K.S.A.
 5 79-2005, and amendments thereto, any person so appealing or
 6 protesting may pay 1/4 thereof on or before January 16, 1990,
 7 1/4 thereof on or before March 20, 1990, and the remaining 1/
 8 2 on or before June 20, 1990. If the full amount of the real
 9 property taxes is \$10 or less, the entire amount thereof shall
 10 be due and payable on or before January 16, 1990.

11 (2) In the event the first half of the real property taxes
 12 remains unpaid after January 16, 1990, the first half of the tax
 13 shall draw interest at the rate of 12% per annum, and may be
 14 paid at any time prior to June 20, 1990, by paying 1/2 of the
 15 tax together with interest at such rate from January 16, 1990,
 16 to the date of payment. In the event that any 1/4 of the real
 17 property taxes remains unpaid after the date upon which such
 18 1/4 is required to be paid, such 1/4 shall draw interest at the
 19 rate of 12% per annum, and may be paid at any time prior to
 20 June 20, 1990, by paying such 1/4 together with interest from
 21 the date such 1/4 was due to the date of payment. All real
 22 property taxes levied in 1989 and accrued interest thereon which
 23 remain due and unpaid on June 21, 1990, shall accrue interest at
 24 the rate of 12% per annum, from June 20, 1990, until paid or until
 25 such property is sold for taxes pursuant to law. Except as provided
 26 by subsection (e), all interest herein provided shall be credited
 27 to the county general fund, and whenever any such interest is
 28 paid, the county treasurer shall enter the amount of interest so
 29 paid on the tax rolls in the proper column and account for such
 30 sum.

31 Sec. ~~3~~ K.S.A. 79-4504 is hereby amended to read as follows: 20
 32 79-4504. Subject to the limitations provided in this act, a claimant
 33 may claim property tax relief under K.S.A. 79-4501 to 79-4517,
 34 inclusive, and acts amendatory thereof ~~amendments thereto~~, with
 35 respect to property taxes accrued in the year 1973 and each year
 36 thereafter, and after audit by the division of taxation, the allowable
 37 amount of such claim shall be paid, *except as otherwise provided in*
 38 *section 1*, to the claimant from funds appropriated for such purposes
 39 upon warrants of the director of accounts and reports pursuant to
 40 vouchers approved by the director of taxation or by any person
 41 designated by him or her *the claimant*; *Provided, That, but* no
 42 warrant issued hereunder shall be drawn in an amount of less than
 43 five dollars (~~\$5~~) \$5. No interest shall be allowed on any payment

1 made to a claimant pursuant to this act.

22 2 Sec. ~~4~~ K.S.A. 79-4504, and K.S.A. 1991 Supp. 79-2004 are
3 hereby repealed.

23 4 Sec. ~~5~~ This act shall take effect and be in force from and after
5 its publication in the statute book.

Sec. 21. K.S.A. 79-4509 is hereby amended to read as follows: 79-4509. In the event property taxes accrued, rent constituting property taxes accrued or their sum exceeds ~~\$500~~ \$600 for a household in any one year, the amount thereof shall, for purposes of this act, be deemed to have been ~~\$500~~ \$600.

and 79-4509

New Section 1. As used in this act, unless the context otherwise requires:

(a) "Homestead" means the owner-occupied residence of the taxpayer and includes owner-occupied units in a condominium, townhouse or similar structure and an owner-occupied mobile home;

(b) "mobile home" means a factory-built structure or structures more than eight feet in width or more than 36 feet in length, equipped with the necessary service connections and made so as to be readily movable as a unit or units on its own running gear and designed to be used as a dwelling unit or units;

(c) "real property taxes" means all ad valorem taxes levied on a homestead, including special assessments and all other charges which are recoverable by law at the annual real estate tax sale, and includes special assessments and all other charges which are recoverable by law at the property tax sale of a mobile home;

(d) "tax-deferred property" means the property upon which real property taxes are deferred pursuant to this act;

(e) "taxpayer" means a person who has filed or whose guardian, conservator or attorney-in-fact has filed a claim for deferral pursuant to this act or persons who have jointly filed a claim for deferral under this act.

New Sec. 2. (a) Subject to the provisions of this act, a person who is 62 years of age or older on or before December 20 of the year in which such person files a claim under this section and has an annual income of less than \$25,000 for such year may elect to defer such person's real property taxes. To exercise such person's option, the taxpayer shall obtain a claim for deferral form from the county clerk and file the same with the treasurer of the county in which such taxpayer's homestead is located. The claim shall be filed on or before December 20 of each year in which such person claims the deferral.

(b) When the taxpayer files a valid claim for deferral under subsection (a), it shall have the effect of:

(1) Deferring the payment of such person's real property

taxes for the year in which the claim is filed;

(2) continuing the deferral of taxes which have been deferred under this act for previous years which have not become delinquent pursuant to section 11; and

(3) terminating and releasing the lien for the general taxes so deferred and substituting therefor the lien for such deferred taxes created by section 5.

(c) If a guardian, conservator or attorney-in-fact has been appointed for a taxpayer otherwise qualified to claim deferral of taxes under this act, the guardian, conservator or attorney-in-fact may act for such taxpayer in claiming the deferral.

New Sec. 3. In order to qualify for real property tax deferral under this act, the property shall meet all of the following requirements at the time the claim is filed and so long thereafter as payment is deferred:

(a) The property must be the homestead of the taxpayer claiming the deferral;

(b) the taxpayer claiming the deferral must, own or jointly own with another person residing in the homestead, own the fee simple estate or be purchasing the fee simple estate under a recorded instrument of sale or own the mobile home or be purchasing the mobile home under a recorded instrument of sale; except that nonresidence of the joint owner in the homestead because of ill health of the joint owner shall not prevent the taxpayer from meeting the requirement of this subsection;

(c) the property for which the deferral is claimed must not be income-producing;

(d) the property may not be subject to the lien of a mortgage or deed of trust which has been of record for less than five years prior to the date on which a claim for deferral is submitted to the county treasurer; except that if there is of record a subordination agreement whereby the holder of a mortgage or deed of trust which has not been of record for five years prior to the date on which a claim for deferral is submitted

agrees to subordinate such mortgage or deed of trust to the lien of the state for deferred taxes, the property may qualify for tax deferral;

(e) all real property taxes for years prior to the year for which the election is made must be paid; and

(f) the cumulative value of the deferral provided in this section plus the interest accrued on the deferral provided in section 5 shall not exceed 90% of the market value of the property less the value of all mortgages which constitute liens upon the property and any other liens upon the property filed prior to the date of recordation of the certificate for deferral.

New Sec. 4. (a) A taxpayer's claim for deferral shall be in writing on a form prescribed by the director of taxation and supplied by the county clerk and shall:

(1) Provide a legal description of the property;

(2) recite facts which establish eligibility for deferral under the provisions of this act;

(3) list all mortgages and deeds of trust which constitute liens upon the property, together with the book and page number of the county records at which each is recorded and the date of recordation;

(4) list all mortgages which constitute liens upon a mobile home, together with the street address and county where the record of any such mortgage is on file;

(5) demonstrate that the cumulative value of the deferral plus the interest accrued on the deferral does not exceed 90% of the market value of the property less the value of all mortgages which constitute liens upon the property and any other liens upon the property filed prior to the date of recordation of the certificate for deferral; and

(6) document that the property is insured against destruction by a policy of property insurance in a cumulative amount sufficient to pay all taxes plus interest deferred under the provisions of this act plus the value of all liens outstanding against the property subject of the deferral.

(b) The form prescribed by the director of taxation shall contain a statement, in bold-faced type, that states substantially as follows:

"IMPORTANT NOTICE TO PROPERTY OWNER: YOU COULD LOSE YOUR PROPERTY IF THE CUMULATIVE AMOUNT OF THE DEFERRAL PLUS INTEREST EXCEEDS 90% OF THE MARKET VALUE OF YOUR PROPERTY LESS THE VALUE OF ANY LIENS."

New Sec. 5. (a) If eligibility for deferral of homestead property is established as provided in this act, the county treasurer shall:

(1) Enter in the county treasurer's records a notation that the property is tax-deferred;

(2) (A) promptly, upon designation of the property as tax-deferred, issue a certificate of deferral, which shall include the name of the taxpayer, the legal description of the property, the amount of tax deferred and the year for which the deferral was granted. The certificate shall be recorded in the county records and thereafter sent to the director of taxation. One copy shall be given to the appraiser and one copy shall be retained in the county treasurer's office;

(B) promptly, upon designation of a mobile home as tax-deferred, the owner of the mobile home shall surrender title to the property to the county treasurer. The county treasurer shall make application with the department of revenue for issuance of a new certificate of title with a record of the lien of the director of taxation. This procedure shall be followed for each subsequent year that the property is deferred. The county treasurer shall issue a certificate of deferral, which shall include the name of the taxpayer, the legal description of the property, the amount deferred, and the tax year for which the deferral was granted, and shall send such certificate to the director of taxation. One copy shall be given to the county appraiser, and one copy shall be retained in the county treasurer's office. Upon satisfaction of the lien, the director of taxation shall release the lien from the title.

(b) If a person holding escrow funds for the payment of ad valorem taxes receives a copy of the certificate of deferral relating to any tax-deferred property, such person, no later than 30 days after receiving the certificate, shall refund to the owner of the property all funds held in escrow for the payment of ad valorem taxes on such property which have been deferred.

(c) Until otherwise required by this act, the county treasurer, in subsequent years, shall continue to list the property as tax-deferred in the manner provided in subsection (a).

(d) The lien for deferred taxes and interest shall attach on the date of recordation of the certificate for deferral, shall be junior to any mortgage or deed of trust recorded prior to the date of recording of such certificate, shall have priority over all liens attaching subsequent to the date of recording of such certificate, and shall not be foreclosed except as provided in sections 10 through 12.

(e) Interest shall accrue on deferred taxes beginning December 20 of the year in which the deferral is claimed, until the date on which such taxes are paid. The rate of such interest shall be computed and applied in the manner prescribed by subsection (a)(1) of section 6621 of the federal internal revenue code as existing on January 1, 1992. On December 20 of each year, interest outstanding as of that date shall be added to and considered a part of the principal amount of the tax.

New Sec. 6. (a) Upon receipt of the certificate of deferral, the director of taxation shall pay to the county treasurer the amount certified as deferred. This amount shall be distributed by the county treasurer in the same manner the tax would have been if regularly paid.

(b) The director of taxation shall maintain an account for each tax-deferred property and shall accrue interest, beginning December 20 of the year in which the deferral was claimed, on the amount paid to the county treasurer pursuant to this section. The director of taxation shall insure that each account for

tax-deferred property complies with this act.

New Sec. 7. (a) On and after the date of payment by the director of taxation to the county treasurer as provided in section 6, the right to receive payment of the deferred taxes and to enforce the lien created by deferral shall be vested in the director of taxation.

(b) If payment of the deferred taxes is tendered to the county treasurer, the county treasurer shall accept payment, give a receipt therefor, and transmit the money collected to the director of taxation.

(c) Promptly upon receiving payment of deferred taxes, the director of taxation shall issue a release of the deferred tax lien, which release shall be given or sent to the person making payment. Copies of the release shall be sent to the county treasurer and the appraiser.

(d) All moneys received in payment of deferred taxes and accrued interest shall be deposited in the state general fund by the director of taxation.

New Sec. 8. At the time the county treasurer sends the annual real property tax notice to any taxpayer who has claimed a deferral of property taxes in the previous calendar year, the county treasurer shall enclose a deferral notice. The deferral notice shall be substantially the following form:

To: (Name of taxpayer)

If you want to defer the collection of ad valorem property taxes on your homestead for the tax year ending on December 31, ____, you must file a claim for deferral not later than December 20, ____, in the office of the county treasurer. Forms for filing such claims are available at the county clerk's office.

If you fail to file your claim for deferral on or before December 20, ____, your real property taxes will be due and payable in accordance with the schedule set out in the enclosed tax notice.

If you change your permanent address at any time during the tax year ending on December 31, ____, you must notify the county

appraiser promptly.

New Sec. 9. Failure to receive the notice provided for in this act is not a defense in any proceeding for the collection of taxes or for the foreclosure of a tax lien. The county treasurer is not personally liable for failure to give such notices.

New Sec. 10. (a) All deferred real property taxes, including accrued interest, become payable subject to sections 11 and 12, when:

(1) The taxpayer who claimed the tax deferral dies;

(2) the property on which the taxes were deferred is sold or becomes subject to a contract of sale or title to the property is transferred to someone other than the taxpayer who claimed the tax deferral;

(3) the property is no longer the homestead of the taxpayer who claimed the deferral, except in the case of a taxpayer required to be absent from such tax-deferred property by reason of ill health;

(4) the tax-deferred property no longer meets the requirements of section 3;

(5) the location of a tax-deferred mobile home has changed either within the county or to another county.

(b) When the county appraiser or county treasurer has reason to believe any of the circumstances enumerated in this section have occurred, the county appraiser or the county treasurer shall promptly notify the director of taxation.

New Sec. 11. (a) Whenever any of the circumstances listed in section 10 occurs:

(1) No further tax deferrals may be claimed on the property until all unpaid taxes thereon, including previously deferred taxes and interest, have been paid;

(2) all deferred taxes and accrued interest shall be due and payable 90 days after the circumstance occurs, except as provided in subsection (b) and in section 12.

(b) Any provision of this section to the contrary notwithstanding, when the taxpayer dies the deferred taxes and

accrued interest shall be due and payable one year after the taxpayer's death.

(c) If the deferred taxes and accrued interest are not paid on the due date, such amounts are delinquent as of that date and the director of taxation shall foreclose the deferred tax lien.

(d) Foreclosure by the director of taxation of deferred tax liens shall be in the same manner as provided by law for the foreclosure of judgment liens. At the foreclosure sale, the director of taxation or the director's representative shall bid on behalf of the state of Kansas the amount of the deferred tax lien.

(e) If the owner of the tax-deferred property elects to do so, the owner may convey the property to the state of Kansas in lieu of paying deferred taxes and accrued interest. Upon completion of such conveyance, all deferred tax liens upon the property shall be extinguished and all liability for payment of deferred taxes and accrued interest shall be released.

(f) The lien for deferred taxes shall be subject to and may be extinguished in a proper foreclosure of a mortgage or deed of trust recorded prior to the date of recording of the certificate of tax deferral. In any such foreclosure, any notice that is required to be sent to the state by reason of the state's holding of a lien for deferred taxes shall be sent to the director of taxation. All other procedural matters for such foreclosure, including notice and time limits, shall be as provided by law pursuant to which the foreclosure is brought.

(g) Whenever the state forecloses a lien for deferred taxes, the interest in the property obtained thereby shall be subject to foreclosure proceedings by the holder of a mortgage or deed of trust recorded prior to the date of recording of the certificate of tax deferral.

New Sec. 12. (a) Notwithstanding the provisions of section 10, when one of the circumstances listed in paragraphs (1) or (3) of subsection (a) of section 10 occurs, the spouse of the taxpayer may elect to continue the property in its tax-deferred

status if:

(1) The spouse of the taxpayer is or will be 60 years of age or older when the circumstance occurs; and

(2) the property is the homestead of the spouse of the taxpayer and meets the requirements of subsections (b) and (c) of section 3.

(b) The election granted under subsection (a) shall be filed in the same manner as a claim for deferral is filed under section 2, not later than 90 days from the date the circumstance occurs. Thereafter, the property shall continue to be treated as tax-deferred property and the county treasurer and director of taxation shall withdraw any action taken under section 11. When the property has been continued in its tax-deferred status by the spouse of the taxpayer, the spouse may continue the property in its tax-deferred status in subsequent years by filing a claim, as provided in section 4, annually if the property continues to be eligible for tax-deferred status.

New Sec. 13. (a) Subject to subsection (b), all or part of the deferred taxes and accrued interest, at any time, may be paid by the taxpayer, the taxpayer's spouse, guardian, conservator, attorney-in-fact, personal representative, next of kin, heir-at-law, or child, or any person having or claiming a legal or equitable interest in the property. If the deferred tax lien is paid, in whole or in part, by a mortgagee or the beneficiary of a deed of trust or seller under contract, the amount paid may be added to the unpaid balance of the mortgage or deed of trust but shall be added to the last payment due under such mortgage or deed of trust or contract, without amortization.

(b) Any payment made under this section shall be applied first to accrued interest and then to deferred taxes. Such payment does not affect the deferred tax status of the property. Voluntary payment does not give the person paying the taxes any interest in the property.

New Sec. 14. Deferred tax certificates and the accrued interest thereon held by the director of taxation shall not be

taken into account in the computation of the reserve or surplus available to the state until such time as the amounts owing thereon have been collected and credited to the state general fund.

New Sec. 15. Nothing in this act is intended to or shall be construed to prevent the collection, by foreclosure or otherwise, of personal property or other taxes which become a lien against tax-deferred property.

New Sec. 16. The director of taxation shall submit to the governor and the legislature a report concerning tax deferral for the elderly as set forth in this act. Such report shall include data concerning the number of taxpayers establishing claims for deferral, the amount of taxes deferred in each county and such other data as the director of taxation may deem useful.

New Sec. 17. The provisions of sections 1 to 16 of this act shall be applicable to tax years commencing on or after January 1, 1993.

Proposed Substitute for H2845

I. Limitations on Industrial Revenue Bonds

1. Restrict any future property tax exemption or abatement granted through IRB's only to those purposes in the constitutional abatement amendment (Art.11,Sec 13):
real/personal property related to manufacturing,
warehousing or research and development;

2. Clarify KSA 12-1742 to require any PILOT (payment in lieu of tax) from constitutional abatements or IRB's to be shared proportionally with school districts.

3. Require cities and counties to meet the provisions of current law (have written policies, cost benefit analyses, BOTTA review) for issuance of any property tax exemption related to IRB's.

II. Constitutional Abatements

1. Require PILOT's in an amount at least equal to the property taxes being paid at the time of the request for abatement.

House Taxation
Attachment 3
03-27-92