

CHAPTER 97

HOUSE Substitute for SENATE BILL No. 98

AN ACT concerning property taxation; relating to statewide levy for public schools, exemption therefrom; fair market value for certain rental property; public utilities, natural gas inventories; amending K.S.A. 2008 Supp. 72-6431, 79-201x, 79-503a and 79-5a01 and repealing the existing sections.

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

Section 1. K.S.A. 2008 Supp. 72-6431 is hereby amended to read as follows: 72-6431. (a) The board of each district shall levy an ad valorem tax upon the taxable tangible property of the district in the school years specified in subsection (b) for the purpose of:

(1) Financing that portion of the district's general fund budget which is not financed from any other source provided by law;

(2) paying a portion of the costs of operating and maintaining public schools in partial fulfillment of the constitutional obligation of the legislature to finance the educational interests of the state; and

(3) with respect to any redevelopment district established prior to July 1, 1997, pursuant to K.S.A. 12-1771, and amendments thereto, paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district.

(b) The tax required under subsection (a) shall be levied at a rate of 20 mills in the school year ~~2007-2008~~ 2009-2010 and school year ~~2008-2009~~ 2010-2011.

(c) The proceeds from the tax levied by a district under authority of this section, except the proceeds of such tax levied for the purpose of paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district, shall be deposited in the general fund of the district.

(d) On June 6 of each year, the amount, if any, by which a district's local effort exceeds the amount of the district's state financial aid, as determined by the state board, shall be remitted to the state treasurer. Upon receipt of any such remittance, the state treasurer shall deposit the same in the state treasury to the credit of the state school district finance fund.

(e) No district shall proceed under K.S.A. 79-1964, 79-1964a or 79-1964b, and amendments thereto.

Sec. 2. K.S.A. 2008 Supp. 79-201x is hereby amended to read as follows: 79-201x. For taxable years ~~2007 and 2008~~ 2009 and 2010, the following described property, to the extent herein specified, shall be and is hereby exempt from the property tax levied pursuant to the provisions of K.S.A. 72-6431, and amendments thereto: Property used for residential purposes to the extent of \$20,000 of its appraised valuation.

Sec. 3. K.S.A. 2008 Supp. 79-503a is hereby amended to read as follows: 79-503a. "Fair market value" means the amount in terms of money that a well informed buyer is justified in paying and a well informed seller is justified in accepting for property in an open and competitive market, assuming that the parties are acting without undue compulsion. In the determination of fair market value of any real property which is subject to any special assessment, such value shall not be determined by adding the present value of the special assessment to the sales price. For the purposes of this definition it will be assumed that consummation of a sale occurs as of January 1.

Sales in and of themselves shall not be the sole criteria of fair market value but shall be used in connection with cost, income and other factors including but not by way of exclusion:

(a) The proper classification of lands and improvements;

(b) the size thereof;

(c) the effect of location on value;

(d) depreciation, including physical deterioration or functional, economic or social obsolescence;

(e) cost of reproduction of improvements;

(f) productivity *taking into account all restrictions imposed by the state or federal government and local governing bodies, including, but not limited to, restrictions on property rented or leased to low income indi-*

viduals and families as authorized by section 42 of the federal internal revenue code of 1986, as amended;

(g) earning capacity as indicated by lease price, by capitalization of net income or by absorption or sell-out period;

(h) rental or reasonable rental values *or rental values restricted by the state or federal government or local governing bodies, including, but not limited to, restrictions on property rented or leased to low income individuals and families, as authorized by section 42 of the federal internal revenue code of 1986, as amended;*

(i) sale value on open market with due allowance to abnormal inflationary factors influencing such values;

(j) restrictions *or requirements* imposed upon the use of real estate by *the state or federal government or local governing bodies, including zoning and planning boards or commissions, and including, but not limited to, restrictions or requirements imposed upon the use of real estate rented or leased to low income individuals and families, as authorized by section 42 of the federal internal revenue code of 1986, as amended;* and

(k) comparison with values of other property of known or recognized value. The assessment-sales ratio study shall not be used as an appraisal for appraisal purposes.

The appraisal process utilized in the valuation of all real and tangible personal property for ad valorem tax purposes shall conform to generally accepted appraisal procedures which are adaptable to mass appraisal and consistent with the definition of fair market value unless otherwise specified by law.

New Sec. 4. It is the purpose of the amendments enacted in this legislation to K.S.A. 79-5a01 to carry out the mandate of the electorate of the state of Kansas who in 1992 amended Section 1 of Article 11 of the Constitution of the state of Kansas to effectuate the taxation of public utility inventories, in response to an appellate decision holding that natural gas owned by public utilities and stored for resale comes within the exemption from ad valorem taxation afforded to merchants' and manufacturers' inventories. The Legislature recognizes that the state has a number of underground formations that are ideal for the storage of natural gas and that the storage of natural gas in these formations by and on behalf of the owners, brokers and marketers of natural gas assures them a plentiful supply of natural gas during periods of peak demand and thereby contributes to their economic viability. The Legislature further recognizes that the state and its political subdivisions provide valuable governmental services that protects the natural gas and its free flow to and from these formations for which such owners, brokers and marketers of natural gas should contribute through the property tax imposed by the amendments enacted in this legislation to K.S.A. 79-5a01.

Sec. 5. K.S.A. 2008 Supp. 79-5a01 is hereby amended to read as follows: 79-5a01. (a) As used in this act, the terms "public utility" or "public utilities" means every individual, company, corporation, association of persons, brokers, *marketers*, lessees or receivers that now or hereafter own, ~~control and hold for resale~~ *stored broker or market natural gas inventories stored for resale* in an underground formation in this state, or now or hereafter are in control, manage or operate a business of:

(1) A railroad or railroad corporation if such railroad or railroad corporation owns or holds, by deed or other instrument, an interest in right-of-way, track, franchise, roadbed or trackage in this state;

(2) transmitting to, from, through or in this state telegraphic messages;

(3) transmitting to, from, through or in this state telephonic messages;

(4) transporting or distributing to, from, through or in this state natural gas, oil or other commodities in pipes or pipelines, or engaging primarily in the business of storing natural gas in an underground formation;

(5) generating, conducting or distributing to, from, through or in this state electric power;

(6) transmitting to, from, through or in this state water if for profit or subject to regulation of the state corporation commission; and

(7) transporting to, from, through or in this state cargo or passengers by means of any vessel or boat used in navigating any of the navigable watercourses within or bordering upon this state.

(b) The terms "public utility" or "public utilities" shall not include:

(1) Rural water districts established under the laws of the state of Kansas; or (2) any individual, company, corporation, association of persons, lessee

or receiver owning or operating an oil or natural gas production gathering line which is situated within one county in this state and does not cross any state boundary line; (3) any individual, company, corporation, association of persons, lessee or receiver owning any vessel or boat operated upon the surface of any manmade waterway located entirely within one county in the state; or (4) for all taxable years commencing after December 31, 1998, any natural gas distribution system which is owned and operated by a nonprofit public utility described by K.S.A. 66-104c, and amendments thereto, and which is operated predominantly for the purpose of providing fuel for the irrigation of land devoted to agricultural use.

(c) The provisions of subsection (a) as amended by this act shall be applicable to all taxable years commencing after December 31, ~~2003~~ 2008.

Sec. 6. K.S.A. 2008 Supp. 72-6431, 79-201x, 79-503a and 79-5a01 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 17, 2009.
