

HOUSE BILL No. 2352

By Committee on Taxation

2-17

1 AN ACT concerning property taxation; relating to exemptions; public
2 utilities; notice and opportunity to be heard for counties; amending
3 K.S.A. 2010 Supp. 79-213 and 79-5a27 and repealing the existing
4 sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2010 Supp. 79-213 is hereby amended to read as
8 follows: 79-213. (a) Any property owner requesting an exemption from
9 the payment of ad valorem property taxes assessed, or to be assessed,
10 against their property shall be required to file an initial request for
11 exemption, on forms approved by the state court of tax appeals and
12 provided by the county appraiser.

13 (b) The initial exemption request shall identify the property for
14 which the exemption is requested and state, in detail, the legal and factual
15 basis for the exemption claimed.

16 (c) The request for exemption shall be filed with the county
17 appraiser of the county where such property is principally located.

18 (d) After a review of the exemption request, and after a preliminary
19 examination of the facts as alleged, the county appraiser shall recommend
20 that the exemption request either be granted or denied, and, if necessary,
21 that a hearing be held. If a denial is recommended, a statement of the
22 controlling facts and law relied upon shall be included on the form.

23 (e) The county appraiser, after making such written
24 recommendation, shall file the request for exemption and the
25 recommendations of the county appraiser with the state court of tax
26 appeals. *If a public utility has filed a request for exemption for all or a*
27 *portion of its property, the director of property valuation, after filing the*
28 *request for exemption and the director's recommendations with the state*
29 *court of tax appeals, shall notify the county where such property is*
30 *located of such filing and provide such county a copy of the director's*
31 *recommendations.*

32 (f) Upon receipt of the request for exemption, the court shall docket
33 the same and notify the applicant and the county appraiser of such fact,
34 *and in the case of a request for exemption filed by a public utility, notify*
35 *the county appraiser of the county where such property is located of such*
36 *fact.*

1 (g) After examination of the request for exemption, and the county
2 appraiser's recommendation related thereto, the court may fix a time and
3 place for hearing, and shall notify the applicant and the county appraiser
4 of the time and place so fixed, *and in the case of an examination of the*
5 *request for exemption filed by a public utility, notify the county appraiser*
6 *of any county where such property is located of the time and place so*
7 *fixed.* A request for exemption pursuant to: (1) Section 13 of article 11 of
8 the Kansas constitution; or (2) K.S.A. 79-201a *Second*, and amendments
9 thereto, for property constructed or purchased, in whole or in part, with
10 the proceeds of revenue bonds under the authority of K.S.A. 12-1740 to
11 12-1749, inclusive, and amendments thereto, prepared in accordance with
12 instructions and assistance which shall be provided by the department of
13 commerce, shall be deemed approved unless scheduled for hearing within
14 30 days after the date of receipt of all required information and data
15 relating to the request for exemption, and such hearing shall be conducted
16 within 90 days after such date. Such time periods shall be determined
17 without regard to any extension or continuance allowed to either party to
18 such request. In any case where a party to such request for exemption
19 requests a hearing thereon, the same shall be granted. Hearings shall be
20 conducted in accordance with the provisions of the Kansas administrative
21 procedure act. In all instances where the court sets a request for
22 exemption for hearing, the county shall be represented by its county
23 attorney or county counselor. *In the case of a request for exemption filed*
24 *by a public utility, the county may submit comments and*
25 *recommendations to the court and shall be provided an opportunity to be*
26 *heard on the matter.*

27 (h) Except as otherwise provided by subsection (g), in the event of a
28 hearing, the same shall be originally set not later than 90 days after the
29 filing of the request for exemption with the court.

30 (i) During the pendency of a request for exemption, no person, firm,
31 unincorporated association, company or corporation charged with real
32 estate or personal property taxes pursuant to K.S.A. 79-2004 and 79-
33 2004a, and amendments thereto, on the tax books in the hands of the
34 county treasurer shall be required to pay the tax from the date the request
35 is filed with the county appraiser until the expiration of 30 days after the
36 court issued its order thereon and the same becomes a final order. In the
37 event that taxes have been assessed against the subject property, no
38 interest shall accrue on any unpaid tax for the year or years in question
39 nor shall the unpaid tax be considered delinquent from the date the
40 request is filed with the county appraiser until the expiration of 30 days
41 after the court issued its order thereon. In the event the court determines
42 an application for exemption is without merit and filed in bad faith to
43 delay the due date of the tax, the tax shall be considered delinquent as of

1 the date the tax would have been due pursuant to K.S.A. 79-2004 and 79-
2 2004a, and amendments thereto, and interest shall accrue as prescribed
3 therein.

4 (j) In the event the court grants the initial request for exemption, the
5 same shall be effective beginning with the date of first exempt use except
6 that, with respect to property the construction of which commenced not to
7 exceed 24 months prior to the date of first exempt use, the same shall be
8 effective beginning with the date of commencement of construction.

9 (k) In conjunction with its authority to grant exemptions, the court
10 shall have the authority to abate all unpaid taxes that have accrued from
11 and since the effective date of the exemption. In the event that taxes have
12 been paid during the period where the subject property has been
13 determined to be exempt, the court shall have the authority to order a
14 refund of taxes for the year immediately preceding the year in which the
15 exemption application is filed in accordance with subsection (a).

16 (l) The provisions of this section shall not apply to: (1) Farm
17 machinery and equipment exempted from ad valorem taxation by K.S.A.
18 79-201j, and amendments thereto; (2) personal property exempted from
19 ad valorem taxation by K.S.A. 79-215, and amendments thereto; (3)
20 wearing apparel, household goods and personal effects exempted from ad
21 valorem taxation by K.S.A. 79-201c, and amendments thereto; (4)
22 livestock; (5) all property exempted from ad valorem taxation by K.S.A.
23 79-201d, and amendments thereto; (6) merchants' and manufacturers'
24 inventories exempted from ad valorem taxation by K.S.A. 79-201m and
25 amendments thereto; (7) grain exempted from ad valorem taxation by
26 K.S.A. 79-201n, and amendments thereto; (8) property exempted from ad
27 valorem taxation by K.S.A. 79-201a *Seventeenth* and amendments
28 thereto, including all property previously acquired by the secretary of
29 transportation or a predecessor in interest, which is used in the
30 administration, construction, maintenance or operation of the state system
31 of highways. The secretary of transportation shall at the time of
32 acquisition of property notify the county appraiser in the county in which
33 the property is located that the acquisition occurred and provide a legal
34 description of the property acquired; (9) property exempted from ad
35 valorem taxation by K.S.A. 79-201a *Ninth*, and amendments thereto,
36 including all property previously acquired by the Kansas turnpike
37 authority which is used in the administration, construction, maintenance
38 or operation of the Kansas turnpike. The Kansas turnpike authority shall
39 at the time of acquisition of property notify the county appraiser in the
40 county in which the property is located that the acquisition occurred and
41 provide a legal description of the property acquired; (10) aquaculture
42 machinery and equipment exempted from ad valorem taxation by K.S.A.
43 79-201j, and amendments thereto. As used in this section, "aquaculture"

1 has the same meaning ascribed thereto by K.S.A. 47-1901, and
2 amendments thereto; (11) Christmas tree machinery and equipment
3 exempted from ad valorem taxation by K.S.A. 79-201j, and amendments
4 thereto; (12) property used exclusively by the state or any municipality or
5 political subdivision of the state for right-of-way purposes. The state
6 agency or the governing body of the municipality or political subdivision
7 shall at the time of acquisition of property for right-of-way purposes
8 notify the county appraiser in the county in which the property is located
9 that the acquisition occurred and provide a legal description of the
10 property acquired; (13) machinery, equipment, materials and supplies
11 exempted from ad valorem taxation by K.S.A. 79-201w, and amendments
12 thereto; (14) vehicles owned by the state or by any political or taxing
13 subdivision thereof and used exclusively for governmental purposes; (15)
14 property used for residential purposes which is exempted pursuant to
15 K.S.A. 79-201x, *and amendments thereto*, from the property tax levied
16 pursuant to K.S.A. 72-6431, and amendments thereto; (16) from and after
17 July 1, 1998, vehicles which are owned by an organization having as one
18 of its purposes the assistance by the provision of transit services to the
19 elderly and to disabled persons and which are exempted pursuant to
20 K.S.A. 79-201 *Ninth*; (17) from and after July 1, 1998, motor vehicles
21 exempted from taxation by subsection (e) of K.S.A. 79-5107, and
22 amendments thereto; (18) commercial and industrial machinery and
23 equipment exempted from property or ad valorem taxation by K.S.A.
24 2010 Supp. 79-223, and amendments thereto; (19) telecommunications
25 machinery and equipment and railroad machinery and equipment
26 exempted from property or ad valorem taxation by K.S.A. 2010 Supp. 79-
27 224, and amendments thereto; and (20) property exempted from property
28 or ad valorem taxation by K.S.A. 2010 Supp. 79-234, and amendments
29 thereto.

30 (m) The provisions of this section shall apply to property exempt
31 pursuant to the provisions of section 13 of article 11 of the Kansas
32 constitution.

33 (n) The provisions of subsection (k) as amended by this act shall be
34 applicable to all exemption applications filed in accordance with
35 subsection (a) after December 31, 2001.

36 (o) *In the case of a request for exemption filed by a public utility, the*
37 *court shall provide to the county appraiser of any county where such*
38 *property is located, a copy of any final order issued by the court related*
39 *to such property.*

40 Sec. 2. K.S.A. 2010 Supp. 79-5a27 is hereby amended to read as
41 follows: 79-5a27. ~~On or before June 15, 1989, and on or before June 15~~
42 ~~each year thereafter,~~ the director of property valuation shall certify to the
43 county clerk of each county the amount of assessed valuation apportioned

1 to each taxing unit therein for properties valued and assessed under
2 K.S.A. 79-5a01 et seq., and amendments thereto. The county clerk shall
3 include such assessed valuations in the applicable taxing districts with all
4 other assessed valuations in those taxing districts, and on or before July 1
5 notify the appropriate officials of each taxing district within the county of
6 the assessed valuation estimates to be utilized in the preparation of
7 budgets for ad valorem tax purposes. If in any year the county clerk has
8 not received the applicable valuations from the director of property
9 valuation, the county clerk shall use the applicable assessed valuations of
10 the preceding year as an estimate for such notification. If the public utility
11 has filed an application for exemption of all or a portion of its property,
12 the director shall notify the county clerk that the exemption application
13 has been filed *and provide the county clerk a copy of such exemption*
14 *application*, and the county clerk shall not be required to include such
15 assessed valuation in the applicable taxing districts until such time as the
16 application is denied by the state court of tax appeals or, if judicial review
17 of the court's order is sought, until such time as judicial review is
18 finalized. *When a county is notified pursuant to this section that a public*
19 *utility has filed an application for exemption of all or a portion of its*
20 *property, within 30 days from such notice, such county may submit to the*
21 *director comments and recommendations with regard to whether the*
22 *exemption should be granted or denied.*

23 Sec. 3. K.S.A. 2010 Supp. 79-213 and 79-5a27 are hereby repealed.

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

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