

To: House Committee on Taxation

From: Paul A. Welcome, County Appraiser, FRICS, CAE, RMA

Date: March 5, 2013

Subj: House Bill 2134

**Each section of the proposed bill is quoted below followed by numbered comments**

thereto, other than those relating to land devoted to agricultural use, wherein the value of the property is less than \$2,000,000 as reflected on the valuation notice; *or the valuation of the property has been increased by the county appraiser in the next three taxable years following the taxable year that the valuation of the property had been reduced due to a final determination made pursuant to the valuation appeals process.*

- 1. The purpose of the small claims hearing process is to expedite appeals of less expensive properties, particularly residential, through the hearing process; hence the name “small claims.” The process is not designed for complex commercial properties. This section allows a property worth \$20 to \$300 million to use the small claims appeal process.**
- 2. The small claims hearing officers, unlike the judges at the regular division, are not required to have any appraisal qualifications necessary for more complex properties. Also, with only one hearing officer, the collaborative knowledge of several officers is not available as it is at the regular division.**
- 3. Given the strict time limits to complete the small claims hearing process, it would not be possible to have a hearing of sufficient length to deal with more complex valuation issues that frequently arise with more complex properties or it will impede the expedited process for homeowners as more hearing time will necessarily be devoted to more complex properties.**
- 4. The language creates a means to circumvent the filing fee to the regular division.**
- 5. The language is unclear. It seems to allow an appeal up to four years after a final decision in the prior tax year.**

At such meeting it shall be the duty of the county appraiser or the county appraiser's designee to initiate production of evidence to substantiate the valuation of such property, including the affording to the taxpayer of the opportunity to review the data sheet of comparable sales utilized in the determination of such valuation. *At such meeting, the taxpayer may present the county appraiser with an appraisal of valuation of the taxpayer's property prepared by an individual licensed as an appraiser pursuant to K.S.A. 58-4101 et seq., and amendments thereto. If the county appraiser declines to adopt the valuation of the taxpayer's property as established in the appraisal presented by the*

*taxpayer and the taxpayer elects to appeal the decision pursuant to the valuation appeals process, it shall be the duty of the county appraiser to demonstrate, by a preponderance of the evidence, the invalidity of the appraisal submitted by the taxpayer. If the county appraiser declines to adopt the valuation of the taxpayer's property as established in the appraisal presented by the taxpayer and the valuation of the taxpayer's property is reduced pursuant to a final determination made pursuant to the valuation appeals process, the county shall be required to pay reasonable attorney fees and costs to the prevailing taxpayer.*

- 1. The valuation date of the appraisal submitted by the Taxpayer is not specified. The language allows the Taxpayer to submit an appraisal that could be years old.**
- 2. The language does not specify that the appraisal must be done specifically for ad valorem tax purposes. Appraisals can be done for financing; for exchange of properties; for partnership buyouts; for mergers, etc. all of which may have different definitions of value than as is specified in K.S.A. 79-503a or may be valuing interests less than fee simple.**
- 3. If the value is reduced, but not to the value of the Taxpayer's appraisal value, the Court or hearing office may have determined:**
  - a. that both parties have not been persuasive and it has determined a value based on evidence taken from both parties or**
  - b. that there are errors in the Taxpayer's appraisal that required correction or**
  - c. that the Taxpayer's appraisal is not persuasive at all; but, that the County's appraisal is persuasive other than a property characteristic needs to corrected.**
- 4. The County is already required, pursuant to K.S.A. 79-2005, to pay interest on any refund from the general fund. The possible costs of interest can be reasonably calculated and budgeted based on historical analysis. The payment of attorney fees and costs cannot be reasonably accounted for in the budget process.**

*(2) the valuation of the property has been increased by the county appraiser in a taxable year immediately following the taxable year that the valuation of the property had been reduced due to a final determination made pursuant to the valuation appeals process;*

**The same concerns as identified at the beginning of the testimony apply to this section regarding the small claims hearing process.**

*(c) For the purposes of this section: (1) The term "substantial and compelling reasons" means a change in the character of the use of the property or a substantial addition or improvement to the property;(2) the term "substantial addition or improvement to the property" means any expansion or enlargement of the physical occupancy of the property through the construction of any new structures or improvements on the property or any renovations that expand or enlarge the square footage of any existing structures or improvements on the property. The term "substantial addition or improvement to the property" shall not include: (A) Any maintenance, renovation or repair of any existing structures, equipment or improvements on the property that does not expand or enlarge the square footage of any existing structures or improvements on the property; or (B)*

*reconstruction or replacement of any existing equipment or components of any existing structures or improvement on the property.*

- 1. Valuation are frequently reduced because a property suffers or is suffering from storm damage or deferred maintenance. Clearly, such conditions adversely affect value. When the damage or deferred maintenance is fixed, the property no longer suffers from the adverse condition. It creates inequity to those owners who did not suffer the same issue to allow an owner to benefit when the adverse condition no longer exists.**
- 2. For commercial properties, the County recognizes diminished value to space that has no interior finish. It is common that interior finish is not completed until a tenant leases. Under this language, the County would not be able to recognize the added value of interior finish because the square footage has not increased. This creates inequity to other owners.**
- 3. K.S.A. 79-503a requires that all properties are to be valued at fair market value. The proposed language does not recognize the fair market value concept and creates inequity.**

*At such meeting it shall be the duty of the county appraiser or the county appraiser's designee to initiate production of evidence to substantiate the valuation of such property, including affording the taxpayer the opportunity to review the data sheet of comparable sales utilized in the determination of such valuation at least 48 hours before any hearing on such valuation.*

- 1. When a residential property is valued by the sales comparison approach, the comparable sales are identified on the valuation notice sent pursuant to K.S.A. 79-1460.**
- 2. The property owner can review the comparable sales as well as any other property thought to be comparable online or come in to customer service counter.**
- 3. PVD, with a programming enhancement to the computer assisted mass appraisal system, could make the property record card for all properties available online.**
- 4. It is believed that all counties make this information accessible and available ongoing.**