

As Amended by House Committee

Session of 2013

HOUSE BILL No. 2042

By Committee on Taxation

1-22

1 AN ACT concerning property appraisal and taxation; amending K.S.A.
2 79-1475 and K.S.A. 2012 Supp. 74-2433f, 79-1448, ~~79-1460~~, 79-1609,
3 79-1701a and 79-1702 and repealing the existing sections.
4

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

6 Section 1. K.S.A. 2012 Supp. 74-2433f is hereby amended to read as
7 follows: 74-2433f. (a) There shall be a division of the state court of tax
8 appeals known as the small claims and expedited hearings division.
9 Hearing officers appointed by the chief hearing officer shall have authority
10 to hear and decide cases heard in the small claims and expedited hearings
11 division.

12 (b) The small claims and expedited hearings division shall have
13 jurisdiction over hearing and deciding applications for the refund of
14 protested taxes under the provisions of K.S.A. 79-2005, and amendments
15 thereto, and hearing and deciding appeals from decisions rendered
16 pursuant to the provisions of K.S.A. 79-1448, and amendments thereto,
17 and of article 16 of chapter 79 of the Kansas Statutes Annotated, and ~~acts~~
18 ~~amendatory thereof or supplemental amendments~~ thereto, with regard to
19 single-family residential property. The filing of an appeal with the small
20 claims and expedited hearings division shall be a prerequisite for filing an
21 appeal with the state court of tax appeals for appeals involving single-
22 family residential property.

23 (c) At the election of the taxpayer, the small claims and expedited
24 hearings division shall have jurisdiction over: (1) Any appeal of a decision,
25 finding, order or ruling of the director of taxation, except an appeal,
26 finding, order or ruling relating to an assessment issued pursuant to K.S.A.
27 79-5201 et seq., and amendments thereto, in which the amount of tax in
28 controversy does not exceed \$15,000; (2) hearing and deciding
29 applications for the refund of protested taxes under the provisions of
30 K.S.A. 79-2005, and amendments thereto, where the value of the property,
31 other than property devoted to agricultural use, is less than \$2,000,000 as
32 reflected on the valuation notice; *and* (3) hearing and deciding appeals
33 from decisions rendered pursuant to the provisions of K.S.A. 79-1448, and
34 amendments thereto, and of article 16 of chapter 79 of the Kansas Statutes
35 Annotated, and ~~acts amendatory thereof or supplemental amendments~~
36 thereto, other than those relating to land devoted to agricultural use,

1 wherein the value of the property is less than \$2,000,000 as reflected on
2 the valuation notice.

3 (d) In accordance with the provisions of K.S.A. 74-2438, and
4 amendments thereto, any party may elect to appeal any application or
5 decision referenced in subsection (b) to the state court of tax appeals.
6 Except as provided in subsection (b) regarding single-family residential
7 property, the filing of an appeal with the small claims and expedited
8 hearings division shall not be a prerequisite for filing an appeal with the
9 state court of tax appeals under this section. Final decisions of the small
10 claims and expedited hearings division may be appealed to the state court
11 of tax appeals. An appeal of a decision of the small claims and expedited
12 hearings division to the state court of tax appeals shall be de novo.

13 (e) A taxpayer shall commence a proceeding in the small claims and
14 expedited hearings division by filing a notice of appeal in the form
15 prescribed by the rules of the state court of tax appeals which shall state
16 the nature of the taxpayer's claim. Notice of appeal shall be provided to the
17 appropriate unit of government named in the notice of appeal by the
18 taxpayer. In any valuation appeal or tax protest commenced pursuant to
19 articles 14 and 20 of chapter 79 of the Kansas Statutes Annotated, and
20 amendments thereto, the hearing shall be conducted in the county where
21 the property is located or a county adjacent thereto. In any appeal from a
22 final determination by the secretary of revenue, the hearing shall be
23 conducted in the county in which the taxpayer resides or a county adjacent
24 thereto.

25 (f) The hearing in the small claims and expedited hearings division
26 shall be informal. The hearing officer may hear any testimony and receive
27 any evidence the hearing officer deems necessary or desirable for a just
28 determination of the case. A hearing officer shall have the authority to
29 administer oaths in all matters before the hearing officer. All testimony
30 shall be given under oath. A party may appear personally or may be
31 represented by an attorney, a certified public accountant, a certified general
32 appraiser, a tax representative or agent, a member of the taxpayer's
33 immediate family or an authorized employee of the taxpayer. A county or
34 unified government may be represented by the county appraiser, designee
35 of the county appraiser, county attorney or counselor or other
36 representatives so designated. No transcript of the proceedings shall be
37 kept.

38 (g) The hearing in the small claims and expedited hearings division
39 shall be conducted within 60 days after the appeal is filed in the small
40 claims and expedited hearings division unless such time period is waived
41 by the taxpayer. A decision shall be rendered by the hearing officer within
42 30 days after the hearing is concluded and, in cases arising from appeals
43 described by subsections (b) and (c)(2) and (3), shall be accompanied by a

1 written explanation of the reasoning upon which such decision is based.
2 Documents provided by a taxpayer or county or district appraiser shall be
3 returned to the taxpayer or the county or district appraiser by the hearing
4 officer and shall not become a part of the court's permanent records.
5 Documents provided to the hearing officer shall be confidential and may
6 not be disclosed, except as otherwise specifically provided.

7 (h) With regard to any matter properly submitted to the division
8 relating to the determination of valuation of property for taxation purposes,
9 it shall be the duty of the county appraiser to initiate the production of
10 evidence to demonstrate, by a preponderance of the evidence, the validity
11 and correctness of such determination. No presumption shall exist in favor
12 of the county appraiser with respect to the validity and correctness of such
13 determination. *With regard to leased commercial and industrial property,*
14 *the presumption of validity and correctness of such determination shall*
15 *exist in favor of the county appraiser unless the taxpayer has furnished the*
16 *county or district appraiser, ~~either at~~ **within 30 calendar days following***
17 *the informal meeting required by K.S.A. 79-1448, and amendments*
18 *thereto, or **within 30 calendar days following the informal meeting***
19 *required by K.S.A. 79-2005, and amendments thereto, a complete income*
20 *and expense statement for the property for the three years next preceding*
21 *the year of appeal.*

22 Sec. 2. K.S.A. 2012 Supp. 79-1448 is hereby amended to read as
23 follows: 79-1448. Any taxpayer may complain or appeal to the county
24 appraiser from the classification or appraisal of the taxpayer's property by
25 giving notice to the county appraiser within 30 days subsequent to the date
26 of mailing of the valuation notice required by K.S.A. 79-1460, and
27 amendments thereto, for real property, and on or before May 15 for
28 personal property. The county appraiser or the appraiser's designee shall
29 arrange to hold an informal meeting with the aggrieved taxpayer with
30 reference to the property in question. At such meeting it shall be the duty
31 of the county appraiser or the county appraiser's designee to initiate
32 production of evidence to substantiate the valuation of such property,
33 including the affording to the taxpayer of the opportunity to review the
34 data sheet of comparable sales utilized in the determination of such
35 valuation. *In any appeal from the appraisal of leased commercial and*
36 *industrial property, the county or district appraiser's appraised value shall*
37 *be presumed to be valid and correct and may only be rebutted by a*
38 *preponderance of the evidence, unless the property owner furnishes the*
39 *county or district appraiser a complete income and expense statement for*
40 *the property for the three years next preceding the year of appeal **within***
41 ***30 calendar days following the informal meeting.*** The county appraiser
42 may extend the time in which the taxpayer may informally appeal from the
43 classification or appraisal of the taxpayer's property for just and adequate

1 reasons. Except as provided in K.S.A. 79-1404, and amendments thereto,
2 no informal meeting regarding real property shall be scheduled to take
3 place after May 15, nor shall a final determination be given by the
4 appraiser after May 20. Any final determination shall be accompanied by a
5 written explanation of the reasoning upon which such determination is
6 based when such determination is not in favor of the taxpayer. Any
7 taxpayer who is aggrieved by the final determination of the county
8 appraiser may appeal to the hearing officer or panel appointed pursuant to
9 K.S.A. 79-1611, and amendments thereto, and such hearing officer, or
10 panel, for just cause shown and recorded, is authorized to change the
11 classification or valuation of specific tracts or individual items of real or
12 personal property in the same manner provided for in K.S.A. 79-1606, and
13 amendments thereto. In lieu of appealing to a hearing officer or panel
14 appointed pursuant to K.S.A. 79-1611, and amendments thereto, any
15 taxpayer aggrieved by the final determination of the county appraiser,
16 except with regard to land devoted to agricultural use, wherein the value of
17 the property, is less than \$2,000,000, as reflected on the valuation notice,
18 or the property constitutes single family residential property, may appeal to
19 the small claims and expedited hearings division of the state court of tax
20 appeals within the time period prescribed by K.S.A. 79-1606, and
21 amendments thereto. Any taxpayer who is aggrieved by the final
22 determination of a hearing officer or panel may appeal to the state court of
23 tax appeals as provided in K.S.A. 79-1609, and amendments thereto. An
24 informal meeting with the county appraiser or the appraiser's designee
25 shall be a condition precedent to an appeal to the county or district hearing
26 panel.

27 ~~Sec. 3.—K.S.A. 2012 Supp. 79-1460 is hereby amended to read as~~
28 ~~follows: 79-1460. (a) The county appraiser shall notify each taxpayer in~~
29 ~~the county annually on or before March 1 for real property and May 1 for~~
30 ~~personal property, by mail, which shall include electronic mail when an~~
31 ~~electronic mail address has been provided by the taxpayer or is included~~
32 ~~in any personal property tax return filed pursuant to K.S.A. 79-303 or 79-~~
33 ~~332a, and amendments thereto, directed to the taxpayer's last known~~
34 ~~address, of the classification and appraised valuation of the taxpayer's~~
35 ~~property, except that, the valuation for all real property shall not be~~
36 ~~increased unless: (1) The record of the latest physical inspection was~~
37 ~~reviewed by the county or district appraiser, and documentation exists to~~
38 ~~support such increase in valuation in compliance with the directives and~~
39 ~~specifications of the director of property valuation, and such record and~~
40 ~~documentation is available to the affected taxpayer; and (2) for the taxable~~
41 ~~year next following the taxable year that the valuation for real property has~~
42 ~~been reduced due to a final determination made pursuant to the valuation~~
43 ~~appeals process, documented substantial and compelling reasons exist~~

1 therefor and are provided by the county appraiser. When the valuation for
2 real property has been reduced due to a final determination made pursuant
3 to the valuation appeals process for the prior year, and the county appraiser
4 has already certified the appraisal rolls for the current year to the county
5 clerk pursuant to K.S.A. 79-1466, and amendments thereto, the county
6 appraiser may amend the appraisal rolls and certify the changes to the
7 county clerk to implement the provisions of this subsection and reduce the
8 valuation of the real property to the prior year's final determination, except
9 that such changes shall not be made after October 31 of the current year.
10 For the purposes of this section and in the case of real property, the term
11 "taxpayer" shall be deemed to be the person in ownership of the property
12 as indicated on the records of the office of register of deeds or county clerk
13 and, in the case where the real property or improvement thereon is the
14 subject of a lease agreement, such term shall also be deemed to include the
15 lessee of such property if the lease agreement has been recorded or filed in
16 the office of the register of deeds. Such notice shall specify separately both
17 the previous and current appraised and assessed values for each property
18 class identified on the parcel. Such notice shall also contain the uniform
19 parcel identification number prescribed by the director of property
20 valuation. Such notice shall also contain a statement of the taxpayer's right
21 to appeal, the procedure to be followed in making such appeal and the
22 availability without charge of the guide devised pursuant to subsection (b).
23 Such notice may, and if the board of county commissioners so require,
24 shall provide the parcel identification number, address and the sale date
25 and amount of any or all sales utilized in the determination of appraised
26 value of residential real property. In any year in which no change in
27 appraised valuation of any real property from its appraised valuation in the
28 next preceding year is determined, an alternative form of notification
29 which has been approved by the director of property valuation may be
30 utilized by a county. Failure to timely mail or receive such notice shall in
31 no way invalidate the classification or appraised valuation as changed. The
32 secretary of revenue shall adopt rules and regulations necessary to
33 implement the provisions of this section.

34 (b) For all taxable years commencing after December 31, 1999, there
35 shall be provided to each taxpayer, upon request, a guide to the property
36 tax appeals process. The director of the division of property valuation shall
37 devise and publish such guide, and shall provide sufficient copies thereof
38 to all county appraisers. Such guide shall include but not be limited to: (1)
39 A restatement of the law which pertains to the process and practice of
40 property appraisal methodology, including the contents of K.S.A. 79-503a
41 and 79-1460, and amendments thereto; (2) the procedures of the appeals
42 process, including the order and burden of proof of each party and time
43 frames required by law; and (3) such other information deemed necessary

1 to educate and enable a taxpayer to properly and competently pursue an
2 appraisal appeal.

3 ~~Sec. 4. K.S.A. 79-1475 is hereby amended to read as follows: 79-~~
4 ~~1475. Whenever the county appraiser discovers that any real property or~~
5 ~~improvements thereon, subject to taxation has been omitted from the tax~~
6 ~~rolls, such property or improvements thereon, shall immediately be listed~~
7 ~~and valued by the appraiser, and returned to the county clerk. The county~~
8 ~~clerk, upon receipt of the valuation for such property or improvements~~
9 ~~thereon, shall place such property on the tax rolls and compute the amount~~
10 ~~of tax due based upon the mill levy for the year or years, not to exceed two~~
11 ~~calendar years preceding January 1 of the calendar year in which the~~
12 ~~property is discovered, in which such tax should have been levied, and~~
13 ~~shall certify such amount to the county treasurer as an added or escaped~~
14 ~~appraisal. The amount of such tax shall be due immediately and payable~~
15 ~~within 45 days after the issuance of an added or escaped property tax bill~~
16 ~~by the county treasurer. No interest shall be imposed unless the tax~~
17 ~~remains unpaid after such 45-day period. Taxes levied pursuant to this~~
18 ~~section which remain unpaid after such 45-day period shall be deemed~~
19 ~~delinquent and the county treasurer shall proceed to collect and distribute~~
20 ~~such tax in the same manner as prescribed by law for the collection and~~
21 ~~distribution of other taxes levied on property which are delinquent. No~~
22 ~~property tax levied pursuant to this section shall be payable by any person~~
23 ~~other than the current owner of the property unless such property was~~
24 ~~acquired by will, inheritance or gift. Notwithstanding the foregoing, if the~~
25 ~~current owner of any such property or improvements thereon, purchased in~~
26 ~~the tax year in which such property was discovered to have been omitted~~
27 ~~from the tax rolls pays the property tax which would have been levied~~
28 ~~upon such property for such year within 45 days after the issuance of an~~
29 ~~added or escaped property tax bill by the county treasurer, such owner~~
30 ~~shall not be liable for any property tax which would have been levied upon~~
31 ~~such property for any prior taxable year. Improvements, as used in this~~
32 ~~section, shall include all improvements on the property parcel omitted~~
33 ~~from the tax rolls notwithstanding that other improvements on the property~~
34 ~~were not omitted from the taxrolls.~~

35 ~~Sec. 3. K.S.A. 2012 Supp. 79-1609 is hereby amended to read as~~
36 ~~follows: 79-1609. Any person aggrieved by any order of the hearing~~
37 ~~officer or panel may appeal to the state court of tax appeals by filing a~~
38 ~~written notice of appeal, on forms approved by the state court of tax~~
39 ~~appeals and provided by the county clerk for such purpose, stating the~~
40 ~~grounds thereof and a description of any comparable property or properties~~
41 ~~and the appraisal thereof upon which they rely as evidence of inequality of~~
42 ~~the appraisal of their property, if that be a ground of the appeal, with the~~
43 ~~state court of tax appeals and by filing a copy thereof with the county clerk~~

1 within 30 days after the date of the order from which the appeal is taken. A
2 county or district appraiser may appeal to the state court of tax appeals
3 from any order of the hearing officer or panel. With regard to any matter
4 properly submitted to the court relating to the determination of valuation
5 of residential property or real property used for commercial and industrial
6 purposes for taxation purposes, it shall be the duty of the county appraiser
7 to initiate the production of evidence to demonstrate, by a preponderance
8 of the evidence, the validity and correctness of such determination—~~except~~
9 ~~that no such duty shall accrue with regard to leased commercial and~~
10 ~~industrial property unless the property owner has furnished to the county~~
11 ~~or district appraiser a complete income and expense statement for the~~
12 ~~property for the three years next preceding the year of appeal. No~~
13 ~~presumption shall exist in favor of the county appraiser with respect to the~~
14 ~~validity and correctness of such determination. With regard to leased~~
15 ~~commercial and industrial property, the presumption of validity and~~
16 ~~correctness of such determination shall exist in favor of the county or~~
17 ~~district appraiser unless, at the time of~~ **within 30 calendar days following**
18 **the informal meeting required by K.S.A. 79-1448, and amendments**
19 **thereto, the taxpayer furnished to the county or district appraiser complete**
20 **income and expense statements for the property for the three years next**
21 **preceding the year of appeal.**

22 ~~Sec. 6.~~ **4.** K.S.A. 2012 Supp. 79-1701a is hereby amended to read as
23 follows: 79-1701a. Any taxpayer, the county appraiser or the county clerk
24 shall, on their own motion, request the board of county commissioners to
25 order the correction of the clerical errors in the appraisal, assessment or tax
26 rolls as described in K.S.A. 79-1701, and amendments thereto. The board
27 of county commissioners of the several counties are hereby authorized to
28 order the correction of clerical errors, specified in K.S.A. 79-1701, and
29 amendments thereto, in the appraisal, assessment or tax rolls for the
30 current year and the immediately preceding two years during the period on
31 and after November 1 of each year. If a county treasurer has collected and
32 distributed the property taxes of a taxpayer and it shall thereafter be
33 determined that the tax computed and paid was based on an erroneous
34 assessment due to a clerical error which resulted in an overpayment of
35 taxes by the taxpayer, and such error is corrected under the provisions
36 hereof then the county commissioners may direct a refund in the amount
37 of the overpayment plus interest at the rate prescribed by K.S.A. 79-2968,
38 and amendments thereto, plus two percentage points, per annum, from the
39 date of payment from tax moneys collected during the current year and
40 approve a claim therefor. If all or any portion of the taxes on such property
41 remain unpaid, the board of county commissioners shall cancel that
42 portion of such unpaid taxes which were assessed on the basis of the error
43 which is being corrected. In lieu of taking such a refund the taxpayer may,

1 at the taxpayer's option, be allowed a credit on the current year's taxes in
2 the amount of the overpayment plus interest at the rate prescribed by
3 K.S.A. 79-2968, and amendments thereto, from the date of payment for
4 the previous year. In the event the error results in an understatement of
5 value or taxes as a result of ~~a mathematical miscalculation on the part of~~
6 ~~the county~~, *the correction of the clerical errors listed in subsection (a), (c),*
7 *(f) or (g) of K.S.A. 79-1701, and amendments thereto, and the board of*
8 *county commissioners of the several counties are hereby authorized to*
9 *correct such error and order an additional assessment or tax bill, or both, to*
10 *be issued, except that, in no such case shall the taxpayer be assessed*
11 *interest or penalties on any tax which may be assessed. If such error*
12 *applies to property which has been sold or otherwise transferred*
13 *subsequent to the time the error was made, no such additional assessment*
14 *or tax bill shall be issued.*

15 ~~Sec. 7.~~ **5.** K.S.A. 2012 Supp. 79-1702 is hereby amended to read as
16 follows: 79-1702. If any taxpayer, municipality or taxing district shall have
17 a grievance described under the provisions of K.S.A. 79-1701 or 79-
18 1701a, and amendments thereto, which is not remediable thereunder solely
19 because not reported within the time prescribed therein, or which was
20 remediable thereunder and reported to the proper official or officials
21 within the time prescribed but which has not been remedied by such
22 official or officials, such grievance may be presented to the state court of
23 tax appeals and if it shall be satisfied from competent evidence produced
24 that there is a real grievance, it may direct that the same be remedied either
25 by canceling the tax, if uncollected, together with all penalties charged
26 thereon, or if the tax has been paid, by ordering a refund of the amount
27 found to have been unlawfully charged and collected and interest at the
28 rate prescribed by K.S.A. 79-2968, and amendments thereto, minus two
29 percentage points.

30 In all cases where the identical property owned by any taxpayer has
31 been assessed for the current tax year in more than one county in the state,
32 the court is hereby given authority to determine which county is entitled to
33 the assessment of the property and to charge legal taxes thereon, and if the
34 taxes have been paid in a county not entitled thereto, the court is hereby
35 empowered to direct the authorities of the county which has so unlawfully
36 collected the taxes to refund the same to the taxpayer with all penalties
37 charged thereon.

38 No tax grievance shall be considered by the state court of tax appeals
39 unless the same is filed within four years from the date the tax would have
40 become a lien on real estate.

41 In all cases where an error results in an understatement of values or
42 taxes as a result of ~~a mathematical miscalculation on the part of a county~~
43 *the correction of the clerical errors listed in subsection (a), (c), (f) or (g)*

1 *of K.S.A. 79-1701, and amendments thereto*, the state court of tax appeals,
2 if it shall be satisfied from competent evidence produced that there is an
3 understatement as a result of a clerical error, may order an additional
4 assessment or tax bill, or both, to be issued so that the proper value of the
5 property in question is reflected, except that, in no such case shall the
6 taxpayer be assessed interest or penalties on any tax which may be
7 assessed. No increase shall be ordered to correct such error that extends
8 back more than two years from the date of the most recent tax year. If such
9 error applies to property which has been sold or otherwise transferred
10 subsequent to the time the error was made, no such additional assessment
11 or tax bill shall be issued.

12 Errors committed in the valuation and assessment process that are not
13 specifically described in K.S.A. 79-1701, and amendments thereto, shall
14 be remediable only under the provisions of K.S.A. 79-2005, and
15 amendments thereto.

16 ~~Sec. 8. 6. K.S.A. 79-1475 and~~ K.S.A. 2012 Supp. 74-2433f, 79-1448,
17 ~~79-1460, 79-1609, 79-1701a and 79-1702~~ are hereby repealed.

18 ~~Sec. 9. 7.~~ This act shall take effect and be in force from and after its
19 publication in the statute book.