

Property Tax—Various Provisions; House Sub. for SB 280

House Sub. for SB 280 makes a number of changes in law generally relating to property taxation.

Tax appeal decisions. One set of provisions in the bill clarifies the law governing the issuance and review of Board of Tax Appeals (BOTA) decisions. An aggrieved party is authorized to file a petition for reconsideration after a full and complete opinion had been rendered. Also, an aggrieved party may file a petition for review in the Kansas Court of Appeals after a full and complete BOTA opinion has been issued. Taxpayers also may appeal any summary decision or full and complete BOTA opinion by filing a petition for review in district court. Tax appeals to district court are considered *de novo* trials with evidentiary hearings during which issues of law and fact will be determined anew. District court reviews of BOTA orders relating to property valuation are to be conducted by the court of the county in which the property in question is located.

Removal of appraisers. The bill authorizes the Department of Revenue's Director of Property Valuation to remove from the list of persons eligible to serve as county or district appraisers anyone failing to meet continuing education requirements established by the state; pleading guilty or *nolo contendere* or having been convicted of certain crimes; or having been the subject of a final civil judgment finding fraud, misrepresentation, or deceit in appraising property.

Delinquent property taxes. Another provision raises the interest rate for delinquent real property taxes by five percent. Prior law provided that the interest rate for delinquent property taxes was established at a foundation rate developed in KSA 2015 Supp. 79-2968 (a federally-determined underpayment rate plus one percent). The bill raises the interest rate to the foundation rate plus an additional five percent.

Tax liens. The bill prohibits tax liens being filed against the owner or lessee of certain real property upon which abandoned or repossessed personal property was situated, provided such personal property had been assessed taxes that had not yet been paid. The bill extinguishes all tax liens on the owner or lessee acquiring this type of personal property, and the owner or lessee is not liable for any property taxes owed prior to the date the personal property was acquired.

Delinquent tax list checks. County treasurers are required to check delinquent real property tax lists for the preceding seven years before allowing certain claims to be paid by counties.

Valuation of oil and gas leases. New language requires production information used to establish the fair market value of producing oil and gas leases that have commenced production during the preceding calendar year be limited to production occurring prior to April 1 of the calendar year in which the property is assessed. Information used to establish the fair market value of any base lease or property producing oil and gas for the first time in economic quantities on and after October 1 of the preceding calendar year will be limited to production occurring prior to July 1 of the calendar year in which the property is being assessed.

“Bed and breakfast” property. The definition of “bed and breakfast” property defined as residential and eligible for the 11.5 percent assessment rate is expanded to include property with 5 or fewer bedrooms available for overnight guests who stay for not more than 28 consecutive days.

Recreation commission budget. The bill grants the Blue Valley Unified School District the power to approve or modify the proposed budget of the Blue Valley Recreation Commission.

Airport property tax exemption. A property tax exemption is provided for tax years 2016 to 2020 for property owned and primarily operated as an airport by a healthcare foundation also exempt for federal income tax purposes.

Property valuation procedure. With respect to matters properly submitted to BOTA regarding property valuation, county appraisers are required to demonstrate compliance with valuation methodologies developed by the Director of Property Valuation.

County appraisers are prohibited from requesting certain information from taxpayers, including appraisals conducted for the purpose of obtaining mortgage financing, fee appraisals conducted within the previous 12 months, and documents detailing certain lease agreements.

During informal meetings with taxpayers, county appraisers substantiating the valuation of property are required to provide a summary of the reasons valuation had been increased, list all assumptions used in determining the value of the property, provide a description of the property characteristics, and provide all specific valuation records and conclusions. County appraisers at this time are required to take into account all evidence provided by taxpayers regarding deferred maintenance and depreciation of the property in question.

Agricultural use. A taxpayer’s classification of property as land devoted to agricultural use is deemed valid when executed lease agreements or any other documentation is provided demonstrating a commitment to use the property for agricultural purposes, provided no other actual use of the property is evident.

For parcels containing agricultural land and land used for suburban residential, rural home sites, or farm home sites, county appraisers are required to disaggregate the portion devoted to agricultural use and value it separately.

Mass appraisal. Appraisal procedures and standards utilized by county appraisers are no longer required to be adaptable to mass appraisal. Moreover, appraisals produced by the computer-assisted mass appraisal system no longer meet the definition of “written appraisal” pursuant to KSA 79-504.

At informal hearings involving valuation of property established by counties under computer-assisted mass appraisal, the results of independent market-based appraisals conducted within the previous three months by persons certified pursuant to KSA 2015 Supp. 58-4102 presented by taxpayers are presumed to be correct and valid. Counties have the option of appealing the results of such independent appraisals to BOTA.

For two years following a taxable year wherein the valuation of a parcel of commercial real property has been reduced due to the appeals process, county appraisers are required to

review the computer-assisted mass appraisal of the property and, under certain circumstances when such valuation has increased by more than five percent, adjust the value of the property based on information provided in the previous appeal, or order a certified independent fee appraisal.

For counties failing to meet certain minimum commercial appraisal standards, the Director of Property Valuation is required to perform (or contract with an independent third party to perform) a market-based appraisal of at least one percent of commercial properties otherwise appraised under computer-assisted mass appraisal to test the accuracy of that system. The bill requires properties to be selected to represent a sample of commercial property types which failed to meet statistical compliance, and property owners of the selected commercial parcels are allowed to meet with appraisers to offer pertinent data and insight on issues affecting valuation. If the quality assurance analysis reveals a statistical deviation of more than 5 percent on more than 25 percent of the audited properties, the Director is required to perform additional audits and take any corrective action necessary to ensure fair and accurate appraisals.

Inspection of parcels. The bill repeals statutory language that had deemed counties to be in compliance with a requirement to view and inspect all real estate parcels once every 6 years when 17 percent or more of the parcels had been viewed or inspected in any given year.

Fee-simple appraisal option. Within 60 days after notice of informal meeting results or final determination of valuation has been mailed, aggrieved taxpayers who have not filed further appeals with BOTA will have the option of filing with their county appraisers certified fee-simple appraisals that reflect the valuation of the property in question as of January 1 of the tax year in question. County appraisers subsequently are required to review and consider such appraisals prior to mailing supplemental notices of final determination of valuations within 90 days. County appraisers face the burden of proof in disputing the fee-simple appraisal valuations and further are required to explain the reasons such valuations were not utilized in the supplemental notices. Taxpayers aggrieved of the final valuations in such notices have an additional 30 days to appeal to BOTA.

Study result presentations. For all counties failing to meet minimum requirements for substantial appraisal compliance, the Director is required to present the most recent sales-ratio study results, as well as the results of any subsequent audits, to boards of county commissioners in open meetings. Any such presentations are required to include summary information on the number of valuation protests and their outcomes.

Market study analysis publication. Finally, the bill requires appraisers to publish the results of the annual market study analysis in both the official county newspaper and on the official county website, if the county has an official county website. The bill also changes the timing of publication from at least five business days prior to the mailing of valuation notices to at least ten business days prior to the mailing of the valuation notices.