

HOUSE BILL No. 2584

By Committee on Taxation

1-30

1 AN ACT concerning property taxation; relating to distribution of taxes
2 paid under protest; amending K.S.A. 2017 Supp. 79-2005 and repealing
3 the existing section.
4

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

6 Section 1. K.S.A. 2017 Supp. 79-2005 is hereby amended to read as
7 follows: 79-2005. (a) Any taxpayer, before protesting the payment of such
8 taxpayer's taxes, shall be required, either at the time of paying such taxes,
9 or, if the whole or part of the taxes are paid prior to December 20, no later
10 than December 20, or, with respect to taxes paid in whole or in part in an
11 amount equal to at least $\frac{1}{2}$ of such taxes on or before December 20 by an
12 escrow or tax service agent, no later than January 31 of the next year, to
13 file a written statement with the county treasurer, on forms approved by
14 the state board of tax appeals and provided by the county treasurer, clearly
15 stating the grounds on which the whole or any part of such taxes are
16 protested and citing any law, statute or facts on which such taxpayer relies
17 in protesting the whole or any part of such taxes. When the grounds of
18 such protest is an assessment of taxes made pursuant to K.S.A. 79-332a
19 and 79-1427a, and amendments thereto, the county treasurer may not
20 distribute the taxes paid under protest until such time as the appeal is final.

21 *When the grounds of such protest is an assessment of taxes on property*
22 *classified in subclass 1 of section 1 of article 11 of the constitution of the*
23 *state of Kansas, then the county treasurer may not distribute that portion*
24 *of the taxes that is in dispute until such time as the appeal is final.* When
25 the grounds of such protest is that the valuation or assessment of the
26 property upon which the taxes are levied is illegal or void, the county
27 treasurer shall forward a copy of the written statement of protest to the
28 county appraiser who shall within 15 days of the receipt thereof, schedule
29 an informal meeting with the taxpayer or such taxpayer's agent or attorney
30 with reference to the property in question. At the informal meeting, it shall
31 be the duty of the county appraiser or the county appraiser's designee to
32 initiate production of evidence to substantiate the valuation of such
33 property, including a summary of the reasons that the valuation of the
34 property has been increased over the preceding year, any assumptions used
35 by the county appraiser to determine the value of the property and a
36 description of the individual property characteristics, property specific

1 valuation records and conclusions. The taxpayer shall be provided with the
2 opportunity to review the data sheets applicable to the valuation approach
3 utilized for the subject property. The county appraiser shall take into
4 account any evidence provided by the taxpayer which relates to the
5 amount of deferred maintenance and depreciation of the property. The
6 county appraiser shall review the appraisal of the taxpayer's property with
7 the taxpayer or such taxpayer's agent or attorney and may change the
8 valuation of the taxpayer's property, if in the county appraiser's opinion a
9 change in the valuation of the taxpayer's property is required to assure that
10 the taxpayer's property is valued according to law, and shall, within 15
11 business days thereof, notify the taxpayer in the event the valuation of the
12 taxpayer's property is changed, in writing of the results of the meeting. In
13 the event the valuation of the taxpayer's property is changed and such
14 change requires a refund of taxes and interest thereon, the county treasurer
15 shall process the refund in the manner provided by subsection (l).

16 (b) No protest appealing the valuation or assessment of property shall
17 be filed pertaining to any year's valuation or assessment when an appeal of
18 such valuation or assessment was commenced pursuant to K.S.A. 79-1448,
19 and amendments thereto, nor shall the second half payment of taxes be
20 protested when the first half payment of taxes has been protested.
21 Notwithstanding the foregoing, this provision shall not prevent any
22 subsequent owner from protesting taxes levied for the year in which such
23 property was acquired, nor shall it prevent any taxpayer from protesting
24 taxes when the valuation or assessment of such taxpayer's property has
25 been changed pursuant to an order of the director of property valuation.

26 (c) A protest shall not be necessary to protect the right to a refund of
27 taxes in the event a refund is required because the final resolution of an
28 appeal commenced pursuant to K.S.A. 79-1448, and amendments thereto,
29 occurs after the final date prescribed for the protest of taxes.

30 (d) If the grounds of such protest shall be that the valuation or
31 assessment of the property upon which the taxes so protested are levied is
32 illegal or void, such statement shall further state the exact amount of
33 valuation or assessment which the taxpayer admits to be valid and the
34 exact portion of such taxes which is being protested.

35 (e) If the grounds of such protest shall be that any tax levy, or any
36 part thereof, is illegal, such statement shall further state the exact portion
37 of such tax which is being protested.

38 (f) Upon the filing of a written statement of protest, the grounds of
39 which shall be that any tax levied, or any part thereof, is illegal, the county
40 treasurer shall mail a copy of such written statement of protest to the state
41 board of tax appeals and the governing body of the taxing district making
42 the levy being protested.

43 (g) Within 30 days after notification of the results of the informal

1 meeting with the county appraiser pursuant to subsection (a), the
2 protesting taxpayer may, if aggrieved by the results of the informal
3 meeting with the county appraiser, appeal such results to the state board of
4 tax appeals.

5 (h) After examination of the copy of the written statement of protest
6 and a copy of the written notification of the results of the informal meeting
7 with the county appraiser in cases where the grounds of such protest is that
8 the valuation or assessment of the property upon which the taxes are levied
9 is illegal or void, the board shall conduct a hearing in accordance with the
10 provisions of the Kansas administrative procedure act, unless waived by
11 the interested parties in writing. If the grounds of such protest is that the
12 valuation or assessment of the property is illegal or void the board shall
13 notify the county appraiser thereof.

14 (i) In the event of a hearing, the same shall be originally set not later
15 than 90 days after the filing of the copy of the written statement of protest
16 and a copy, when applicable, of the written notification of the results of the
17 informal meeting with the county appraiser with the board. With regard to
18 any matter properly submitted to the board relating to the determination of
19 valuation of residential property or real property used for commercial and
20 industrial purposes for taxation purposes, it shall be the duty of the county
21 appraiser to initiate the production of evidence to demonstrate, by a
22 preponderance of the evidence, the validity and correctness of such
23 determination except that no such duty shall accrue to the county or
24 district appraiser with regard to leased commercial and industrial property
25 unless the property owner has furnished to the county or district appraiser
26 a complete income and expense statement for the property for the three
27 years next preceding the year of appeal. No presumption shall exist in
28 favor of the county appraiser with respect to the validity and correctness of
29 such determination. In all instances where the board sets a request for
30 hearing and requires the representation of the county by its attorney or
31 counselor at such hearing, the county shall be represented by its county
32 attorney or counselor. The board shall take into account any evidence
33 provided by the taxpayer which relates to the amount of deferred
34 maintenance and depreciation for the property. In any appeal from the
35 reclassification of property that was classified as land devoted to
36 agricultural use for the preceding year, the taxpayer's classification of the
37 property as land devoted to agricultural use shall be presumed to be valid
38 and correct if the taxpayer provides an executed lease agreement or other
39 documentation demonstrating a commitment to use the property for
40 agricultural use, if no other actual use is evident.

41 (j) When a determination is made as to the merits of the tax protest,
42 the board shall render and serve its order thereon. The county treasurer
43 shall notify all affected taxing districts of the amount by which tax

1 revenues will be reduced as a result of a refund.

2 (k) If a protesting taxpayer fails to file a copy of the written statement
3 of protest and a copy, when applicable, of the written notification of the
4 results of the informal meeting with the county appraiser with the board
5 within the time limit prescribed, such protest shall become null and void
6 and of no effect whatsoever.

7 (l) (1) In the event the board orders that a refund be made pursuant to
8 this section or the provisions of K.S.A. 79-1609, and amendments thereto,
9 or a court of competent jurisdiction orders that a refund be made, and no
10 appeal is taken from such order, or in the event a change in valuation
11 which results in a refund pursuant to subsection (a), the county treasurer
12 shall, as soon thereafter as reasonably practicable, refund to the taxpayer
13 such protested taxes and, with respect to protests or appeals commenced
14 after the effective date of this act, interest computed at the rate prescribed
15 by K.S.A. 79-2968, and amendments thereto, minus two percentage points,
16 per annum from the date of payment of such taxes from tax moneys
17 collected but not distributed. Upon making such refund, the county
18 treasurer shall charge the fund or funds having received such protested
19 taxes, except that, with respect to that portion of any such refund
20 attributable to interest the county treasurer shall charge the county general
21 fund. In the event that the state board of tax appeals or a court of
22 competent jurisdiction finds that any time delay in making its decision is
23 unreasonable and is attributable to the taxpayer, it may order that no
24 interest or only a portion thereof be added to such refund of taxes.

25 (2) No interest shall be allowed pursuant to paragraph (1) in any case
26 where the tax paid under protest was inclusive of delinquent taxes.

27 (m) Whenever, by reason of the refund of taxes previously received
28 or the reduction of taxes levied but not received as a result of decreases in
29 assessed valuation, it will be impossible to pay for imperative functions for
30 the current budget year, the governing body of the taxing district affected
31 may issue no-fund warrants in the amount necessary. Such warrants shall
32 conform to the requirements prescribed by K.S.A. 79-2940, and
33 amendments thereto, except they shall not bear the notation required by
34 such section and may be issued without the approval of the state board of
35 tax appeals. The governing body of such taxing district shall make a tax
36 levy at the time fixed for the certification of tax levies to the county clerk
37 next following the issuance of such warrants sufficient to pay such
38 warrants and the interest thereon. All such tax levies shall be in addition to
39 all other levies authorized by law.

40 (n) Whenever a taxpayer appeals to the board of tax appeals pursuant
41 to the provisions of K.S.A. 79-1609, and amendments thereto, or pays
42 taxes under protest related to one property whereby the assessed valuation
43 of such property exceeds 5% of the total county assessed valuation of all

1 property located within such county and the taxpayer receives a refund of
2 such taxes paid under protest or a refund made pursuant to the provisions
3 of K.S.A. 79-1609, and amendments thereto, the county treasurer or the
4 governing body of any taxing subdivision within a county may request the
5 pooled money investment board to make a loan to such county or taxing
6 subdivision as provided in this section. The pooled money investment
7 board is authorized and directed to loan to such county or taxing
8 subdivision sufficient funds to enable the county or taxing subdivision to
9 refund such taxes to the taxpayer. The pooled money investment board is
10 authorized and directed to use any moneys in the operating accounts,
11 investment accounts or other investments of the state of Kansas to provide
12 the funds for such loan. Each loan shall bear interest at a rate equal to the
13 net earnings rate of the pooled money investment portfolio at the time of
14 the making of such loan. The total aggregate amount of loans under this
15 program shall not exceed \$50,000,000 of unencumbered funds pursuant to
16 article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments
17 thereto. Such loan shall not be deemed to be an indebtedness or debt of the
18 state of Kansas within the meaning of section 6 of article 11 of the
19 constitution of the state of Kansas. Upon certification to the pooled money
20 investment board by the county treasurer or governing body of the amount
21 of each loan authorized pursuant to this subsection, the pooled money
22 investment board shall transfer each such amount certified by the county
23 treasurer or governing body from the state bank account or accounts
24 prescribed in this subsection to the county treasurer who shall deposit such
25 amount in the county treasury. Any such loan authorized pursuant to this
26 subsection shall be repaid within four years. The county or taxing
27 subdivision shall make not more than four equal annual tax levies at the
28 time fixed for the certification of tax levies to the county clerk following
29 the making of such loan sufficient to pay such loan within the time period
30 required under such loan. All such tax levies shall be in addition to all
31 other levies authorized by law.

32 (o) The county treasurer shall disburse to the proper funds all portions
33 of taxes paid under protest and shall maintain a record of all portions of
34 such taxes which are so protested and shall notify the governing body of
35 the taxing district levying such taxes thereof and the director of accounts
36 and reports if any tax protested was levied by the state.

37 (p) This statute shall not apply to the valuation and assessment of
38 property assessed by the director of property valuation and it shall not be
39 necessary for any owner of state assessed property, who has an appeal
40 pending before the state board of tax appeals, to protest the payment of
41 taxes under this statute solely for the purpose of protecting the right to a
42 refund of taxes paid under protest should that owner be successful in that
43 appeal.

- 1 Sec. 2. K.S.A. 2017 Supp. 79-2005 is hereby repealed.
- 2 Sec. 3. This act shall take effect and be in force from and after its
- 3 publication in the statute book.