

SENATE BILL No. 318

By Senators Bowers, Billinger and Tyson

1-5

1 AN ACT concerning **taxation; relating to** sales and compensating use tax;
2 ~~relating to exemptions; providing an a sales tax exemption~~
3 **{exemptions}** for reconstructing, repairing or replacing certain fencing
4 damaged or destroyed by ~~wildfires~~ **{natural disaster and for**
5 **constructing, reconstructing, repairing or replacing certain fencing}**;
6 **relating to property tax; providing for abatement or credit of property**
7 **tax for buildings and improvements destroyed or substantially**
8 **destroyed by natural disaster;** amending K.S.A. **79-1613 and 79-**
9 **3606d and repealing the existing section sections.**

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. K.S.A. 79-3606d is hereby amended to read as follows: 79-
13 3606d. (a) The following shall be exempt from the tax imposed by the
14 Kansas retailers' sales tax act: **{(1)}** All sales of tangible personal property
15 and services purchased ~~during calendar years 2017 and 2018~~ **on and after**
16 **January 1, 2021, {and purchased within two years of the date of the**
17 **applicable disaster declaration}** necessary to reconstruct, repair or replace
18 any fence that was damaged or destroyed by ~~wildfires~~ **{a wildfire, flood,**
19 **tornado or other natural disaster}** occurring ~~during calendar years 2016~~
20 ~~and 2017~~ **on and after January 1, 2021,** and the purpose for which is to
21 enclose land devoted to agricultural use. **{A taxpayer shall be eligible for**
22 **the exemption if the affected property containing the damaged or**
23 **destroyed fencing is located within an area declared to be a disaster by**
24 **the federal, state or local government. As used in this section, "wildfire"**
25 **means a fire that spreads rapidly over grassland, woodland or brush**
26 **creating unwanted and unplanned destruction.}** Sales tax paid on and
27 after January 1, ~~2017~~ **2021,** upon the gross receipts received from any such
28 sale shall be refunded. Each claim for a sales tax refund shall be verified
29 and submitted to the director of taxation upon forms furnished by the
30 director and shall be accompanied by any additional documentation
31 required by the director. The director shall review each claim and shall
32 refund that amount of sales tax paid as determined under the provisions of
33 this section. All refunds shall be paid from the sales tax refund fund upon
34 warrants of the director of accounts and reports pursuant to vouchers

1 approved by the director or the director's designee. Any person
2 reconstructing, repairing or replacing such property, or any person who
3 shall contract for the reconstruction, repair or replacement of any such
4 property shall obtain from the state an exemption certificate for the project
5 involved. The certificate shall be furnished to the person or contractor to
6 purchase materials and lease machinery and equipment for such project.
7 The person or contractor shall furnish the number of such certificate to all
8 suppliers from whom such purchases are made, and such suppliers shall
9 execute invoices covering the same bearing the number of such certificate.
10 Upon completion of the project the contractor shall furnish to the person
11 that obtained the exemption certificate, a sworn statement, on a form to be
12 provided by the director of taxation, that all purchases so made were
13 entitled to exemption under this subsection *{paragraph; and*

14 *(2) on and after July 1, 2022, all sales of tangible personal property*
15 *and services necessary to construct, reconstruct, repair or replace any*
16 *fence that the purpose for which is to enclose land devoted to*
17 *agricultural use}*.

18 (b) The provisions of this section shall be ~~deemed to be a part of and~~
19 supplemental to the Kansas retailers' sales tax act.

20 *Sec. 2. K.S.A. 79-1613 is hereby amended to read as follows: 79-*
21 *1613. (a) As used in this section:*

22 *(1) "Destroyed or substantially destroyed" means damage of any*
23 *origin sustained by a homestead or building or improvement as the direct*
24 *result of: (A) An earthquake, flood, tornado, fire or storm; or (B) an*
25 *event or occurrence—~~which~~ that the governor of the state of Kansas has*
26 *declared a disaster, whereby the cost of restoring the structure {damaged*
27 *as a result of subparagraph (A) or (B)} to its before-damaged condition*
28 *would equal or exceed 50% of the market value of the structure before*
29 *the damage occurred.*

30 *(2) "Homestead" means the dwelling, or any part thereof, whether*
31 *owned or rented, ~~which~~ that is occupied as a residence by the household*
32 *and so much of the land surrounding it, as defined as a home site for ad*
33 *valorem tax purposes, and may consist of a part of a multi-dwelling or*
34 *multi-purpose building and a part of the land upon which it is built or a*
35 *manufactured home or mobile home and the land upon which it is*
36 *situated. "Owned" includes a vendee in possession under a land*
37 *contract, a life tenant, a beneficiary under a trust and one or more joint*
38 *tenants or tenants in common.*

39 ~~*(3) "Public or private buyout" means any buyout from a local, state or*~~
40 ~~*federal governmental entity or any non-governmental entity, including, but*~~
41 ~~*not limited to, an individual, foundation, trust, association, corporation,*~~
42 ~~*limited liability company or partnership.*~~

43 *(b) The owner of any building or improvement listed and assessed*

1 *for property taxation purposes as real property or any homestead listed*
2 *and assessed for property taxation purposes* ~~which that was destroyed or~~
3 *substantially destroyed* ~~due to an earthquake, flood, tornado, fire, storm, or~~
4 ~~other event or occurrence which that the governor of the state of Kansas~~
5 ~~has declared a disaster~~ *may make application to the board of county*
6 *commissioners of the county in which such property is located for the*
7 *abatement of property taxes levied upon such homestead or building or*
8 *improvement or for a credit against property taxes payable by such*
9 *owner, as permitted by this section.*

10 *(1) If such homestead or building or improvement has been so*
11 *destroyed or substantially destroyed after January 1 of a particular year*
12 *but prior to August 15 of such year, the owner of such homestead or*
13 *building or improvement may make application to such board of county*
14 *commissioners for the abatement of property taxes levied upon such*
15 *homestead or building or improvement, or if such property taxes have*
16 *been paid or partially paid, may make application for the granting of a*
17 *credit against property taxes payable by such owner during any or all of*
18 *the next succeeding three taxable years.*

19 *(2) If such homestead or building or improvement has been so*
20 *destroyed or substantially destroyed on or after August 15 of a particular*
21 *year but prior to January 1 of the next succeeding year, the owner of*
22 *such homestead or building or improvement may make application to*
23 *such board of county commissioners for the granting of a credit against*
24 *property taxes payable by such owner during any or all of the next*
25 *succeeding three taxable years.*

26 *(c) An application for relief as permitted by subsection (b) may be*
27 *made for abatement of property taxes assessed but not yet paid, or for a*
28 *grant of a credit for assessed property taxes paid or for both, as the case*
29 *may be, and may be made on or before December 20 of the year next*
30 *succeeding the year for which such taxes have been assessed.*

31 *(d) Upon receipt of any such application, subject to budgetary*
32 *restraints of the county or taxing subdivision* ~~arising from the event or~~
33 ~~occurrence declared a disaster by the governor,~~ *the board of county*
34 *commissioners shall inquire into and make findings regarding, among*
35 *other things, whether the property is a homestead, as defined in*
36 *subsection (a), whether the property is a building or improvement,*
37 *whether the homestead or the building or improvement was destroyed or*
38 *substantially destroyed, as defined in subsection (a) and the assessed*
39 *valuation thereof. If it is determined that an owner of such homestead or*
40 *building or improvement is entitled to an abatement of all or any portion*
41 *of the property taxes levied against such homestead or building or*
42 *improvement or is entitled to a credit against property taxes payable by*
43 *such owner in any or all of the next succeeding three years, the board*

1 *may issue an order so providing.*

2 *(e) The county clerk and county treasurer shall in each case of*
3 *abatement or credit correct their records in accordance therewith and*
4 *the county clerk shall notify the governing body of any taxing district*
5 *affected thereby.*

6 *(f) The provisions of this section shall be applicable to all taxable*
7 *years commencing after December 31, ~~2011~~ 2018, and all taxable years*
8 *thereafter.*

9 *(g) Notwithstanding any provision of subsection (c) to the contrary,*
10 *an application for relief as permitted by subsection (b) may be made for*
11 *abatement of property taxes assessed but not yet paid, or for a grant of a*
12 *credit for assessed property taxes paid, or for both, as the case may be,*
13 *and may be made on or before December 20, 2022, for taxable years 2019*
14 *and 2020.*

15 ~~Sec. 2.~~ **3.** K.S.A. ~~79-1613 and 79-3606d~~ *is* **are** hereby repealed.

16 ~~Sec. 3.~~ **4.** This act shall take effect and be in force from and after its
17 publication in the Kansas register.