SENATE BILL No. 445

By Committee on Ways and Means


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

Section 1. K.S.A. 2011 Supp. 79-32,205 is hereby amended to read as follows: 79-32,205. (a) There shall be allowed as a credit against the tax liability of a resident individual imposed under the Kansas income tax act an amount equal to 18% for tax years 2010 through 2012, and an amount equal to 17% for tax year 2013, and all tax years thereafter, of the amount of the earned income credit allowed against such taxpayer's federal income tax liability pursuant to section 32 of the federal internal revenue code for the taxable year in which such credit was claimed against the taxpayer's federal income tax liability.

(b) Commencing in tax year 2012, and all tax years thereafter, the amount of the credit allowed by subsection (a) shall not exceed the taxpayer's income tax liability imposed under the Kansas income tax act, reduced by the sum of any other credits allowable against the tax liability of the taxpayer pursuant to law.

Sec. 2. K.S.A. 2011 Supp. 79-4501 is hereby amended to read as follows: 79-4501. The title of this act shall be the homestead property tax refund act. The purpose of this act shall be to provide ad valorem tax refunds to: (a) Certain persons who are of qualifying age who own or rent their homestead; (b) certain persons who have a disability, who own or rent their homestead; and (c) certain persons other than persons included under the provisions of (a) or (b) who have low incomes and dependent children and own or rent their homestead.

Sec. 3. K.S.A. 2011 Supp. 79-4502 is hereby amended to read as follows: 79-4502. As used in this act, unless the context clearly indicates otherwise:

(a) "Income" means the sum of adjusted gross income under the Kansas income tax act, maintenance, support money, cash public assistance and relief, not including any refund granted under this act, the gross amount of any pension or annuity, including all monetary retirement
benefits from whatever source derived, including but not limited to, all payments received under the railroad retirement act, except disability payments, payments received under the federal social security act, except that for determination of what constitutes income such amount shall not exceed 50% of any such social security payments and shall not include any social security payments to a claimant who prior to attaining full retirement age had been receiving disability payments under the federal social security act in an amount not to exceed the amount of such disability payments or 50% of any such social security payments, whichever is greater, all dividends and interest from whatever source derived not included in adjusted gross income, workers compensation and the gross amount of "loss of time" insurance. Income does not include gifts from nongovernmental sources or surplus food or other relief in kind supplied by a governmental agency, nor shall net operating losses and net capital losses be considered in the determination of income. Income does not include veterans disability pensions. Income does not include disability payments received under the federal social security act.

(b) "Household" means a claimant, a claimant and spouse who occupy the homestead or a claimant and one or more individuals not related as husband and wife who together occupy a homestead.

(c) "Household income" means all income received by all persons of a household in a calendar year while members of such household.

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

(e) "Claimant" means a person who has filed a claim under the provisions of this act and was, during the entire calendar year preceding the year in which such claim was filed for refund under this act, except as provided in K.S.A. 79-4503, and amendments thereto, both domiciled in this state and was: (1) A person having a disability; (2) a person who is 55 years of age or older; (3) a disabled veteran; (4) the surviving spouse of active duty military personnel who died in the line of duty; or (5) a person other than a person included under (1), (2), (3) or (4) having one or more dependent children under 18 years of age residing at the person's homestead during the calendar year immediately preceding the year in which a claim is filed under this act. The surviving spouse of a disabled veteran who was receiving benefits pursuant to subsection (e)(3) of this
section at the time of the veterans' death, shall be eligible to continue to receive benefits until such time the surviving spouse remarries.

When a homestead is occupied by two or more individuals and more than one of the individuals is able to qualify as a claimant, the individuals may determine between them as to whom the claimant will be. If they are unable to agree, the matter shall be referred to the secretary of revenue whose decision shall be final.

(f) "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest and charges for service, levied on a claimant's homestead in 1979 or any calendar year thereafter by the state of Kansas and the political and taxing subdivisions of the state. When a homestead is owned by two or more persons or entities as joint tenants or tenants in common and one or more of the persons or entities is not a member of claimant's household, "property taxes accrued" is that part of property taxes levied on the homestead that reflects the ownership percentage of the claimant's household. For purposes of this act, property taxes are "levied" when the tax roll is delivered to the local treasurer with the treasurer's warrant for collection. When a claimant and household own their homestead part of a calendar year, "property taxes accrued" means only taxes levied on the homestead when both owned and occupied as a homestead by the claimant's household at the time of the levy, multiplied by the percentage of 12 months that the property was owned and occupied by the household as its homestead in the year. When a household owns and occupies two or more different homesteads in the same calendar year, property taxes accrued shall be the sum of the taxes allocable to those several properties while occupied by the household as its homestead during the year. Whenever a homestead is an integral part of a larger unit such as a multi-purpose or multi-dwelling building, property taxes accrued shall be that percentage of the total property taxes accrued as the value of the homestead is of the total value. For the purpose of this act, the word "unit" refers to that parcel of property covered by a single tax statement of which the homestead is a part.

(g) "Disability" means:

1. Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, and an individual shall be determined to be under a disability only if the physical or mental impairment or impairments are of such severity that the individual is not only unable to do the individual's previous work but cannot, considering age, education and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which the individual
lives or whether a specific job vacancy exists for the individual, or whether
the individual would be hired if application was made for work. For
purposes of the preceding sentence (with respect to any individual), "work
which exists in the national economy" means work which exists in
significant numbers either in the region where the individual lives or in
several regions of the country; for purposes of this subsection, a "physical
or mental impairment" is an impairment that results from anatomical,
physiological or psychological abnormalities which are demonstrable by
medically acceptable clinical and laboratory diagnostic techniques; or

(2) blindness and inability by reason of blindness to engage in
substantial gainful activity requiring skills or abilities comparable to those
of any gainful activity in which the individual has previously engaged with
some regularity and over a substantial period of time.

(h) "Blindness" means central visual acuity of $20/200$ or less in the
better eye with the use of a correcting lens. An eye which is accompanied
by a limitation in the fields of vision such that the widest diameter of the
visual field subtends an angle no greater than 20 degrees shall be
considered for the purpose of this paragraph as having a central visual
acuity of $20/200$ or less.

(i) "Rent constituting property taxes accrued" means 15% of the gross
rent actually paid in cash or its equivalent in 2007 or any taxable year
thereafter by a claimant and claimant's household solely for the right of
occupancy of a Kansas homestead on which ad valorem property taxes
were levied in full for that year. When a household occupies two or more
different homesteads in the same calendar year, rent constituting property
taxes accrued shall be computed by adding the rent constituting property
taxes accrued for each property rented by the household while occupied by
the household as its homestead during the year.

(j) "Gross rent" means the rental paid at arm's length solely for the
right of occupancy of a homestead or space rental paid to a landlord for the
parking of a mobile home, exclusive of charges for any utilities, services,
furniture and furnishings or personal property appliances furnished by the
landlord as a part of the rental agreement, whether or not expressly set out
in the rental agreement. Whenever the director of taxation finds that the
landlord and tenant have not dealt with each other at arms length and that
the gross rent charge was excessive, the director may adjust the gross rent
to a reasonable amount for the purposes of the claim.

(k) "Disabled veteran" means a person who is a resident of Kansas
and has been honorably discharged from active service in any branch of
the armed forces of the United States or Kansas national guard and who
has been certified by the United States department of veterans affairs or its
successor to have a 50% permanent disability sustained through military
action or accident or resulting from disease contracted while in such active
Sec. 4. K.S.A. 2011 Supp. 79-4508 is hereby amended to read as follows: 79-4508. (a) Commencing in the tax year beginning after December 31, 2005, the amount of any claim pursuant to this act shall be computed by deducting the amount computed under column (2) from the amount of claimant's property tax accrued and/or rent constituting property tax accrued. 

<table>
<thead>
<tr>
<th>(1) Claimants household income</th>
<th>(2) Deduction from property tax accrued and/or rent constituting property tax accrued</th>
</tr>
</thead>
<tbody>
<tr>
<td>At least $0 more than $6,000</td>
<td>$0</td>
</tr>
<tr>
<td>$6,001 $10,001 $16,000 $33,000</td>
<td>4% 4% plus 4% of every $1,000, or fraction thereof, of income in excess of $7,001</td>
</tr>
<tr>
<td>$7,001 $11,001 $17,000 $33,000</td>
<td>4% 4% plus 4% of every $1,000, or fraction thereof, of income in excess of $7,001</td>
</tr>
<tr>
<td>$16,001 $27,000 $33,001 $60,001</td>
<td>40% plus 5% of every $1,000, or fraction thereof, of income in excess of $16,001</td>
</tr>
<tr>
<td>$27,001 $33,001 $60,001 $34,200</td>
<td>95% 96%</td>
</tr>
</tbody>
</table>

(b) The director of taxation shall prepare a table under which claims under this act shall be determined. The amount of claim for each bracket shall be computed only to the nearest $1.

(c) The claimant may elect not to record the amount claimed on the claim. The claim allowable to persons making this election shall be computed by the department which shall notify the claimant by mail of the amount of the allowable claim.

(d) In the case of all tax years commencing after December 31, 2004, the upper limit threshold amount prescribed in this section, shall be increased by an amount equal to such threshold amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) of the federal internal revenue code for the calendar year in which the taxable year commences.

Sec. 5. K.S.A. 2011 Supp. 79-4509 is hereby amended to read as follows: 79-4509. In the event property taxes accrued, rent constituting property taxes accrued, or their sum exceeds $700 $1,200 for a household in any one year, the amount thereof shall, for purposes of this act, be deemed to have been $700 $1,200.

Sec. 6. K.S.A. 2011 Supp. 79-4511 is hereby amended to read as follows: 79-4511. (a) Every claimant under this act shall supply to the division, in support of a claim, reasonable proof of age or disability, and changes of homestead, household membership, household income, and
size and nature of property claimed as the homestead. A claim alleging
disability shall be supported by a report of the examining physician of the
claimant with a statement or certificate that the applicant has a disability
within the meaning of subsection (g) of K.S.A. 79-4502, and amendments
thereto.

(b) Every claimant who is a homestead owner, or whose claim is
based wholly or partly upon homestead ownership at some time during the
calendar year, shall supply to the division, in support of a claim, the
amount of property taxes levied upon the property claimed as a homestead
and a statement that the property taxes accrued used for purposes of this
act have been or will be paid by the claimant. Upon request by the
division, such claimant shall provide a copy of the statement of property
taxes levied upon the property claimed as a homestead. The amount of
personal property taxes levied on a manufactured home or mobile home
shall be set out on the personal property tax statement showing the amount
of such tax as a separate item.

(c) Every claimant who is a homestead renter, or whose claim is
based wholly or partly upon homestead rental at some time during the
calendar year, shall supply to the division, in support of a claim, a
statement prescribed by the director certifying the amount of gross rent
paid and that ad valorem property taxes were levied in full for that year on
the property, all or a part of which was rented by the claimant. When such
claimant reports household income that is 150% or less of the homestead
rental amount and such claimant has failed to provide any documentation
or information requested by the division to verify such household income
in support of a claim as required pursuant to subsection (a), within 30 days
of such request, such homestead property tax refund claim shall be denied.

(d) The information required to be furnished under subsections (b) or
(e) subsection (b) shall be in addition to that required under subsection (a).

Sec. 7. K.S.A. 2011 Supp. 79-4522 is hereby amended to read as
follows: 79-4522. A person owning or occupying a homestead that is not
rental property and for which the appraised valuation for property tax
purposes exceeds $350,000 in any year shall not be entitled to claim a
refund of property taxes under the homestead property tax refund act for
any such year. The provisions of this section shall be part of and
supplemental to the homestead property tax refund act.

79-4509, 79-4511 and 79-4522 are hereby repealed.

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