

As Amended by House Committee

Session of 2019

HOUSE BILL No. 2340

By Committee on Taxation

2-14

1 AN ACT concerning property taxation; relating to distribution of certain  
2 property taxes paid under protest; **notice by county appraiser to other**  
3 **taxing entities of properties under protest**; amending K.S.A. 2018  
4 Supp. 79-2005 and repealing the existing section.

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

7 Section 1. K.S.A. 2018 Supp. 79-2005 is hereby amended to read as  
8 follows: 79-2005. (a) Any taxpayer, before protesting the payment of such  
9 taxpayer's taxes, shall be required, either at the time of paying such taxes,  
10 or, if the whole or part of the taxes are paid prior to December 20, no later  
11 than December 20, or, with respect to taxes paid in whole or in part in an  
12 amount equal to at least  $\frac{1}{2}$  of such taxes on or before December 20 by an  
13 escrow or tax service agent, no later than January 31 of the next year, to  
14 file a written statement with the county treasurer, on forms approved by  
15 the state board of tax appeals and provided by the county treasurer, clearly  
16 stating the grounds on which the whole or any part of such taxes are  
17 protested and citing any law, statute or facts on which such taxpayer relies  
18 in protesting the whole or any part of such taxes. When the grounds of  
19 such protest is an assessment of taxes made pursuant to K.S.A. 79-332a  
20 and 79-1427a, and amendments thereto, the county treasurer may not  
21 distribute the taxes paid under protest until such time as the appeal is final.  
22 **Commencing July 1, 2020, and thereafter, the county treasurer may not**  
23 **distribute the portion of taxes that exceed the preceding year's taxes until**  
24 **such time as the appeal is final when: (1) The grounds of such protest is**  
25 **the valuation of or assessment of taxes on property classified in subclass 1**  
26 **of class 1 of section 1 of article 11 of the constitution of the state of**  
27 **Kansas, and the amount of tax exceeding the preceding year's tax is \$500**  
28 **or more; or (2) the grounds of such protest is the proper classification of**  
29 **commercial and industrial machinery and equipment, or the valuation**  
30 **of or assessment of taxes on property classified in subclass 6 of class 1 of**  
31 **section 1 of article 11 of the constitution of the state of Kansas, and the**  
32 **amount of tax exceeding the preceding year's tax is ~~\$1,000~~ \$5,000 or**  
33 **more. The provisions of the preceding sentence shall not apply to**  
34 **newly constructed structures, unless the appraisal exceeds the**  
35 **building permit enumerated costs by 115%.** When the grounds of such  
36 protest is that the valuation or assessment of the property upon which the

1 taxes are levied is illegal or void, the county treasurer shall forward a copy  
2 of the written statement of protest to the county appraiser who shall within  
3 15 days of the receipt thereof, schedule an informal meeting with the  
4 taxpayer or such taxpayer's agent or attorney with reference to the property  
5 in question. At the informal meeting, it shall be the duty of the county  
6 appraiser or the county appraiser's designee to initiate production of  
7 evidence to substantiate the valuation of such property, including a  
8 summary of the reasons that the valuation of the property has been  
9 increased over the preceding year, any assumptions used by the county  
10 appraiser to determine the value of the property and a description of the  
11 individual property characteristics, property specific valuation records and  
12 conclusions. The taxpayer shall be provided with the opportunity to review  
13 the data sheets applicable to the valuation approach utilized for the subject  
14 property. The county appraiser shall take into account any evidence  
15 provided by the taxpayer which relates to the amount of deferred  
16 maintenance and depreciation of the property. The county appraiser shall  
17 review the appraisal of the taxpayer's property with the taxpayer or such  
18 taxpayer's agent or attorney and may change the valuation of the taxpayer's  
19 property, if in the county appraiser's opinion a change in the valuation of  
20 the taxpayer's property is required to assure that the taxpayer's property is  
21 valued according to law, and shall, within 15 business days thereof, notify  
22 the taxpayer in the event the valuation of the taxpayer's property is  
23 changed, in writing of the results of the meeting. In the event the valuation  
24 of the taxpayer's property is changed and such change requires a refund of  
25 taxes and interest thereon, the county treasurer shall process the refund in  
26 the manner provided by subsection (l).

27 (b) No protest appealing the valuation or assessment of property shall  
28 be filed pertaining to any year's valuation or assessment when an appeal of  
29 such valuation or assessment was commenced pursuant to K.S.A. 79-1448,  
30 and amendments thereto, nor shall the second half payment of taxes be  
31 protested when the first half payment of taxes has been protested.  
32 Notwithstanding the foregoing, this provision shall not prevent any  
33 subsequent owner from protesting taxes levied for the year in which such  
34 property was acquired, nor shall it prevent any taxpayer from protesting  
35 taxes when the valuation or assessment of such taxpayer's property has  
36 been changed pursuant to an order of the director of property valuation.

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

41 (d) If the grounds of such protest shall be that the valuation or  
42 assessment of the property upon which the taxes so protested are levied is  
43 illegal or void, such statement shall further state the exact amount of

1 valuation or assessment which the taxpayer admits to be valid and the  
2 exact portion of such taxes which is being protested.

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

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

11 (g) Within 30 days after notification of the results of the informal  
12 meeting with the county appraiser pursuant to subsection (a), the  
13 protesting taxpayer may, if aggrieved by the results of the informal  
14 meeting with the county appraiser, appeal such results to the state board of  
15 tax appeals.

16 (h) After examination of the copy of the written statement of protest  
17 and a copy of the written notification of the results of the informal meeting  
18 with the county appraiser in cases where the grounds of such protest is that  
19 the valuation or assessment of the property upon which the taxes are levied  
20 is illegal or void, the board shall conduct a hearing in accordance with the  
21 provisions of the Kansas administrative procedure act, unless waived by  
22 the interested parties in writing. If the grounds of such protest is that the  
23 valuation or assessment of the property is illegal or void the board shall  
24 notify the county appraiser thereof.

25 (i) In the event of a hearing, the same shall be originally set not later  
26 than 90 days after the filing of the copy of the written statement of protest  
27 and a copy, when applicable, of the written notification of the results of the  
28 informal meeting with the county appraiser with the board. With regard to  
29 any matter properly submitted to the board relating to the determination of  
30 valuation of residential property or real property used for commercial and  
31 industrial purposes for taxation purposes, it shall be the duty of the county  
32 appraiser to initiate the production of evidence to demonstrate, by a  
33 preponderance of the evidence, the validity and correctness of such  
34 determination except that no such duty shall accrue to the county or  
35 district appraiser with regard to leased commercial and industrial property  
36 unless the property owner has furnished to the county or district appraiser  
37 a complete income and expense statement for the property for the three  
38 years next preceding the year of appeal. No presumption shall exist in  
39 favor of the county appraiser with respect to the validity and correctness of  
40 such determination. In all instances where the board sets a request for  
41 hearing and requires the representation of the county by its attorney or  
42 counselor at such hearing, the county shall be represented by its county  
43 attorney or counselor. The board shall take into account any evidence

1 provided by the taxpayer which relates to the amount of deferred  
2 maintenance and depreciation for the property. In any appeal from the  
3 reclassification of property that was classified as land devoted to  
4 agricultural use for the preceding year, the taxpayer's classification of the  
5 property as land devoted to agricultural use shall be presumed to be valid  
6 and correct if the taxpayer provides an executed lease agreement or other  
7 documentation demonstrating a commitment to use the property for  
8 agricultural use, if no other actual use is evident.

9 (j) When a determination is made as to the merits of the tax protest,  
10 the board shall render and serve its order thereon. The county treasurer  
11 shall notify all affected taxing districts of the amount by which tax  
12 revenues will be reduced as a result of a refund.

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

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

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

38 (m) Whenever, by reason of the refund of taxes previously received  
39 or the reduction of taxes levied but not received as a result of decreases in  
40 assessed valuation, it will be impossible to pay for imperative functions for  
41 the current budget year, the governing body of the taxing district affected  
42 may issue no-fund warrants in the amount necessary. Such warrants shall  
43 conform to the requirements prescribed by K.S.A. 79-2940, and

1 amendments thereto, except they shall not bear the notation required by  
2 such section and may be issued without the approval of the state board of  
3 tax appeals. The governing body of such taxing district shall make a tax  
4 levy at the time fixed for the certification of tax levies to the county clerk  
5 next following the issuance of such warrants sufficient to pay such  
6 warrants and the interest thereon. All such tax levies shall be in addition to  
7 all other levies authorized by law.

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

43 (o) *Except as provided in subsection (a),* the county treasurer shall

1 disburse to the proper funds all portions of taxes paid under protest and  
2 shall maintain a record of all portions of such taxes which are so protested  
3 and shall notify the governing body of the taxing district levying such  
4 taxes thereof and the director of accounts and reports if any tax protested  
5 was levied by the state.

6 (p) This statute shall not apply to the valuation and assessment of  
7 property assessed by the director of property valuation and it shall not be  
8 necessary for any owner of state assessed property, who has an appeal  
9 pending before the state board of tax appeals, to protest the payment of  
10 taxes under this statute solely for the purpose of protecting the right to a  
11 refund of taxes paid under protest should that owner be successful in that  
12 appeal.

13 **New Sec. 2. (a) Prior to June 1 of each year, the county appraiser**  
14 **shall provide to the county clerk a certified list of all real properties**  
15 **that are: (1) Protesting the valuation or assessment of property for the**  
16 **current year and have not been resolved as of June 1; and (2)**  
17 **appraised greater than \$40,000 and seeking an exemption from**  
18 **property or ad valorem taxes. The list shall include the owner, address**  
19 **and appraised value of each parcel.**

20 (b) Prior to June 15 of each year, the county clerk shall provide  
21 the list created pursuant to subsection (a) to each taxing jurisdiction  
22 potentially impacted by the protest or exemption along with the  
23 assessed value of each parcel.

24 **New Sec. 3. (a) Prior to January 10 of each year, the county**  
25 **treasurer shall provide to each taxing jurisdiction potentially impacted**  
26 **by an escrow a certified list of all real properties that have tax dollars**  
27 **escrowed pursuant to K.S.A. 79-2005, and amendments thereto. The**  
28 **list shall include the owner, address and assessed value of each parcel,**  
29 **and amount of tax for that entity escrowed.**

30 (b) This list may be sent electronically, if delivery can be  
31 confirmed.

32 ~~Sec. 2.~~ 4. K.S.A. 2018 Supp. 79-2005 is hereby repealed.

33 ~~Sec. 3.~~ 5. This act shall take effect and be in force from and after its  
34 publication in the statute book.