

SENATE BILL No. 479

By Senator Emler (By request)

1-31

AN ACT relating to property taxation; concerning the exemption therefrom for certain elderly housing; amending K.S.A. 2001 Supp. 79-201 and 79-201b and repealing the existing sections.

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

Section 1. K.S.A. 2001 Supp. 79-201 is hereby amended to read as follows: 79-201. The following described property, to the extent herein specified, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

First. All buildings used exclusively as places of public worship and all buildings used exclusively by school districts and school district interlocal cooperatives organized under the laws of this state, with the furniture and books therein contained and used exclusively for the accommodation of religious meetings or for school district or school district interlocal cooperative purposes, whichever is applicable, together with the grounds owned thereby if not leased or otherwise used for the realization of profit, except that: (a) (1) Any school building, or portion thereof, together with the grounds upon which the building is located, shall be considered to be used exclusively by the school district for the purposes of this section when leased by the school district to any political or taxing subdivision of the state, including a school district interlocal cooperative, or to any association, organization or nonprofit corporation entitled to tax exemption with respect to such property; and (2) any school building, together with the grounds upon which the building is located, shall be considered to be used exclusively by a school district interlocal cooperative for the purposes of this section when being acquired pursuant to a lease-purchase agreement; and (b) any building, or portion thereof, used as a place of worship, together with the grounds upon which the building is located, shall be considered to be used exclusively for the religious purposes of this section when used as a not-for-profit day care center for children which is licensed pursuant to K.S.A. 65-501 *et seq.*, and amendments thereto, or when used to house an area where the congregation of a church society and others may purchase tracts, books and other items relating to the promulgation of the church society's religious doctrines.

Second. All real property, and all tangible personal property, actually

1 and regularly used exclusively for literary, educational, scientific, relig-
2 ious, benevolent or charitable purposes, including property used exclu-
3 sively for such purposes by more than one agency or organization for one
4 or more of such exempt purposes. Except with regard to real property
5 which is owned by a religious organization, is to be used exclusively for
6 religious purposes and is not used for a nonexempt purpose prior to its
7 exclusive use for religious purposes which property shall be deemed to
8 be actually and regularly used exclusively for religious purposes for the
9 purposes of this paragraph, this exemption shall not apply to such prop-
10 erty, not actually used or occupied for the purposes set forth herein, nor
11 to such property held or used as an investment even though the income
12 or rentals received therefrom is used wholly for such literary, educational,
13 scientific, religious, benevolent or charitable purposes. In the event any
14 such property which has been exempted pursuant to the preceding sen-
15 tence is not used for religious purposes prior to its conveyance which
16 results in its use for nonreligious purposes, there shall be a recoupment
17 of property taxes in an amount equal to the tax which would have been
18 levied upon such property except for such exemption for all taxable years
19 for which such exemption was in effect. Such recoupment tax shall be-
20 come due and payable in such year as provided by K.S.A. 79-2004, and
21 amendments thereto. A lien for such taxes shall attach to the real property
22 subject to the same on November 1 in the year such taxes become due
23 and all such taxes remaining due and unpaid after the date prescribed for
24 the payment thereof shall be collected in the manner provided by law for
25 the collection of delinquent taxes. Moneys collected from the recoupment
26 tax hereunder shall be credited by the county treasurer to the several
27 taxing subdivisions within which such real property is located in the pro-
28 portion that the total tangible property tax levies made in the preceding
29 year for each such taxing subdivision bear to the total of all such levies
30 made in that year by all such taxing subdivisions. Such moneys shall be
31 credited to the general fund of the taxing subdivision or if such taxing
32 subdivision is making no property tax levy for the support of a general
33 fund such moneys may be credited to any other tangible property tax
34 fund of general application of such subdivision. This exemption shall not
35 be deemed inapplicable to property which would otherwise be exempt
36 pursuant to this paragraph because an agency or organization: (a) Is re-
37 imursed for the provision of services accomplishing the purposes enu-
38 merated in this paragraph based upon the ability to pay by the recipient
39 of such services; or (b) is reimbursed for the actual expense of using such
40 property for purposes enumerated in this paragraph; or (c) uses such
41 property for a nonexempt purpose which is minimal in scope and insub-
42 stantial in nature if such use is incidental to the exempt purposes of this
43 paragraph; or (d) charges a reasonable fee for admission to cultural or

1 educational activities or permits the use of its property for such activities
2 by a related agency or organization, if any such activity is in furtherance
3 of the purposes of this paragraph.

4 *Third.* All moneys and credits belonging exclusively to universities, col-
5 leges, academies or other public schools of any kind, or to religious, lit-
6 erary, scientific or benevolent and charitable institutions or associations,
7 appropriated solely to sustain such institutions or associations, not ex-
8 ceeding in amount or in income arising therefrom the limit prescribed
9 by the charter of such institution or association.

10 *Fourth.* The reserve or emergency funds of fraternal benefit societies
11 authorized to do business under the laws of the state of Kansas.

12 *Fifth.* All buildings of private nonprofit universities or colleges which
13 are owned and operated by such universities and colleges as student union
14 buildings, presidents' homes and student dormitories.

15 *Sixth.* All real and tangible personal property actually and regularly
16 used exclusively by the alumni association associated by its articles of
17 incorporation with any public or nonprofit Kansas college or university
18 approved by the Kansas board of regents to confer academic degrees or
19 with any community college approved by its board of trustees to grant
20 certificates of completion of courses or curriculum, to provide accom-
21 modations and services to such college or university or to the alumni, staff
22 or faculty thereof.

23 *Seventh.* All parsonages owned by a church society and actually and
24 regularly occupied and used predominantly as a residence by a minister
25 or other clergyman of such church society who is actually and regularly
26 engaged in conducting the services and religious ministrations of such
27 society, and the land upon which such parsonage is located to the extent
28 necessary for the accommodation of such parsonage.

29 *Eighth.* All real property, all buildings located on such property and all
30 personal property contained therein, actually and regularly used exclu-
31 sively by any individually chartered organization of honorably discharged
32 military veterans of the United States armed forces or auxiliary of any
33 such organization, which is exempt from federal income taxation pursuant
34 to section 501(c)(19) of the federal internal revenue code of 1986, for
35 clubhouse, place of meeting or memorial hall purposes, and real property
36 to the extent of not more than two acres, and all buildings located on
37 such property, actually and regularly used exclusively by any such veter-
38 ans' organization or its auxiliary as a memorial park.

39 *Ninth.* All real property and tangible personal property actually and
40 regularly used by a community service organization for the predominant
41 purpose of providing humanitarian services, which is owned and operated
42 by a corporation organized not for profit under the laws of the state of
43 Kansas or by a corporation organized not for profit under the laws of

1 another state and duly admitted to engage in business in this state as a
2 foreign not-for-profit corporation if: (a) The directors of such corporation
3 serve without pay for such services; (b) the corporation is operated in a
4 manner which does not result in the accrual of distributable profits, re-
5 alization of private gain resulting from the payment of compensation in
6 excess of a reasonable allowance for salary or other compensation for
7 services rendered or the realization of any other form of private gain; (c)
8 no officer, director or member of such corporation has any pecuniary
9 interest in the property for which exemption is claimed; (d) the corpo-
10 ration is organized for the purpose of providing humanitarian services;
11 (e) the actual use of property for which an exemption is claimed must be
12 substantially and predominantly related to the purpose of providing hu-
13 manitarian services, except that, the use of such property for a nonexempt
14 purpose which is minimal in scope and insubstantial in nature shall not
15 result in the loss of exemption if such use is incidental to the purpose of
16 providing humanitarian services by the corporation; (f) the corporation is
17 exempt from federal income taxation pursuant to section 501(c)(3) of the
18 internal revenue code of 1986 and; (g) contributions to the corporation
19 are deductible under the Kansas income tax act. As used in this clause,
20 “humanitarian services” means the conduct of activities which substan-
21 tially and predominantly meet a demonstrated community need and
22 which improve the physical, mental, social, cultural or spiritual welfare of
23 others or the relief, comfort or assistance of persons in distress or any
24 combination thereof including but not limited to health and recreation
25 services, child care, individual and family counseling, employment and
26 training programs for handicapped persons and meals or feeding pro-
27 grams. Notwithstanding any other provision of this clause, motor vehicles
28 shall not be exempt hereunder unless such vehicles are exclusively used
29 for the purposes described therein, except that the use of any such vehicle
30 for the purpose of participating in a coordinated transit district in ac-
31 cordance with the provisions of K.S.A. 75-5032 through 75-5037, and
32 amendments thereto, or K.S.A. 75-5051 through 75-5058, and amend-
33 ments thereto, shall be deemed as exclusive use. *The provisions of this*
34 *paragraph shall not be applicable to property described by the provisions*
35 *of K.S.A. 79-201b Fifth, and amendments thereto.*

36 *Tenth.* For all taxable years commencing after December 31, 1986, any
37 building, and the land upon which such building is located to the extent
38 necessary for the accommodation of such building, owned by a church or
39 nonprofit religious society or order which is exempt from federal income
40 taxation pursuant to section 501(c)(3) of the federal internal revenue code
41 of 1986, and actually and regularly occupied and used exclusively for
42 residential and religious purposes by a community of persons who are
43 bound by vows to a religious life and who conduct or assist in the conduct

1 of religious services and actually and regularly engage in religious, be-
2 nevolent, charitable or educational ministrations or the performance of
3 health care services.

4 *Eleventh.* For all taxable years commencing after December 31, 1998,
5 all property actually and regularly used predominantly to produce and
6 generate electricity utilizing renewable energy resources or technologies.
7 For purposes of this section, “renewable energy resources or technolo-
8 gies” shall include wind, solar, thermal, photovoltaic, biomass, hydro-
9 power, geothermal and landfill gas resources or technologies.

10 The provisions of this section, except as otherwise more specifically
11 provided, shall apply to all taxable years commencing after December 31,
12 1995.

13 Sec. 2. K.S.A. 2001 Supp. 79-201b is hereby amended to read as
14 follows: 79-201b. The following described property, to the extent herein
15 specified, shall be and is hereby exempt from all property or ad valorem
16 taxes levied under the laws of the state of Kansas:

17 *First.* All real property, and tangible personal property, actually and
18 regularly used exclusively for hospital purposes by a hospital as the same
19 is defined by K.S.A. 65-425, and amendments thereto, or a psychiatric
20 hospital as the same was defined by K.S.A. 59-2902, and amendments
21 thereto, as in effect on January 1, 1976, which hospital or psychiatric
22 hospital is operated by a corporation organized not for profit under the
23 laws of the state of Kansas or by a corporation organized not for profit
24 under the laws of another state and duly admitted to engage in business
25 in this state as a foreign, not-for-profit corporation, or a public hospital
26 authority; and all intangible property including moneys, notes and other
27 evidences of debt, and the income therefrom, belonging exclusively to
28 such a corporation and used exclusively for hospital, psychiatric hospital
29 or public hospital authority purposes. This exemption shall not be deemed
30 inapplicable to property which would otherwise be exempt pursuant to
31 this paragraph because any such hospital, psychiatric hospital or public
32 hospital authority: (a) Uses such property for a nonexempt purpose which
33 is minimal in scope and insubstantial in nature if such use is incidental to
34 the exempt purpose enumerated in this paragraph; or (b) is reimbursed
35 for the actual expense of using such property for the exempt purposes
36 enumerated in this paragraph or paragraph second of K.S.A. 79-201, and
37 amendments thereto; or (c) permits the use of such property for the
38 exempt purposes enumerated in this paragraph or paragraph second of
39 K.S.A. 79-201, and amendments thereto, by more than one agency or
40 organization for one or more of such purposes.

41 *Second.* All real property, and tangible personal property, actually and
42 regularly used exclusively for adult care home purposes by an adult care
43 home as the same is defined by K.S.A. 39-923, and amendments thereto,

1 which is operated by a corporation organized not for profit under the laws
2 of the state of Kansas or by a corporation organized not for profit under
3 the laws of another state and duly admitted to engage in business in this
4 state as a foreign, not-for-profit corporation, charges to residents for serv-
5 ices of which produce an amount which in the aggregate is less than the
6 actual cost of operation of the home or the services of which are provided
7 to residents at the lowest feasible cost, taking into consideration such
8 items as reasonable depreciation, interest on indebtedness, acquisition
9 costs, interest and other expenses of financing acquisition costs, lease
10 expenses and costs of services provided by a parent corporation at its costs
11 and contributions to which are deductible under the Kansas income tax
12 act; and all intangible property including moneys, notes and other evi-
13 dences of debt, and the income therefrom, belonging exclusively to such
14 corporation and used exclusively for adult care home purposes. For pur-
15 poses of this paragraph and for all taxable years commencing after De-
16 cember 31, 1976, an adult care home which uses its property in a manner
17 which is consistent with the federal internal revenue service ruling 72-
18 124 issued pursuant to section 501(c)(3) of the federal internal revenue
19 code, shall be deemed to be operating at the lowest feasible cost. The
20 fact that real property or real or tangible personal property may be leased
21 from a not-for-profit corporation, which is exempt from federal income
22 taxation pursuant to section 501(c)(3) of the internal revenue code of
23 1986, and amendments thereto, and which is the parent corporation to
24 the not-for-profit operator of an adult care home, shall not be grounds to
25 deny exemption or deny that such property is actually and regularly used
26 exclusively for adult care home purposes by an adult care home, nor shall
27 the terms of any such lease be grounds for any such denial. For all taxable
28 years commencing after December 31, 1995, such property shall be
29 deemed to be used exclusively for adult care home purposes when used
30 as a not-for-profit day care center for children which is licensed pursuant
31 to K.S.A. 65-501 *et seq.*, and amendments thereto.

32 *Third.* All real property, and tangible personal property, actually and
33 regularly used exclusively for private children's home purposes by a pri-
34 vate children's home as the same is defined by K.S.A. 75-3329, and
35 amendments thereto, which is operated by a corporation organized not
36 for profit under the laws of the state of Kansas or by a corporation or-
37 ganized not for profit under the laws of another state and duly admitted
38 to engage in business in this state as a foreign, not-for-profit corporation,
39 charges to residents for services of which produce an amount which in
40 the aggregate is less than the actual cost of operation of the home or the
41 services of which are provided to residents at the lowest feasible cost,
42 taking into consideration such items as reasonable depreciation and in-
43 terest on indebtedness, and contributions to which are deductible under

1 the Kansas income tax act; and all intangible property including moneys,
2 notes and other evidences of debt, and the income therefrom, belonging
3 exclusively to such a corporation and used exclusively for children's home
4 purposes.

5 *Fourth.* All real property and tangible personal property, actually and
6 regularly used exclusively for housing for elderly and handicapped persons
7 having a limited or lower income, or used exclusively for cooperative
8 housing for persons having a limited or low income, assistance for the
9 financing of which was received under 12 U.S.C.A. 1701 *et seq.*, or under
10 42 U.S.C.A. 1437 *et seq.*, which is operated by a corporation organized
11 not for profit under the laws of the state of Kansas or by a corporation
12 organized not for profit under the laws of another state and duly admitted
13 to engage in business in this state as a foreign, not-for-profit corporation;
14 and all intangible property including moneys, notes and other evidences
15 of debt, and the income therefrom, belonging exclusively to such a corporation
16 and used exclusively for the purposes of such housing. For the
17 purposes of this subsection, cooperative housing shall mean those not-
18 for-profit cooperative housing projects operating pursuant to sections 236
19 or 221(d)(3), or both, of the national housing act and which have been
20 approved as a cooperative housing project pursuant to applicable federal
21 housing administration and U.S. Department of Housing and Urban Development
22 statutes, and rules and regulations, during such time as the
23 use of such properties are restricted pursuant to such act, statutes or rules
24 and regulations.

25 *Fifth.* All real property and tangible personal property, actually and
26 regularly used exclusively for housing for elderly persons, which is operated
27 by a corporation organized not for profit under the laws of the state
28 of Kansas or by a corporation organized not for profit under the laws of
29 another state and duly admitted to engage in business in this state as a
30 foreign, not-for-profit corporation, in which charges to residents produce
31 an amount which in the aggregate is less than the actual cost of operation
32 of the housing facility or the services of which are provided to residents
33 at the lowest feasible cost, taking into consideration such items as reasonable
34 depreciation and interest on indebtedness and contributions to which are deductible
35 under the Kansas income tax act; and all intangible property including moneys,
36 notes and other evidences of debt, and the income therefrom, belonging exclusively
37 to such corporation and used exclusively for the purpose of such housing. For purposes
38 of this paragraph and for all taxable years commencing after December 31, 1976,
39 an adult care home which uses its property in a manner which is consistent
40 with the federal internal revenue service ruling 72-124 issued pursuant
41 to section 501(c)(3) of the federal internal revenue code, shall be deemed
42 to be operating at the lowest feasible cost. For all taxable years com-
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1 mencing after December 31, 1995, such property shall be deemed to be
2 used exclusively for housing for elderly persons purposes when used as a
3 not-for-profit day care center for children which is licensed pursuant to
4 K.S.A. 65-501 *et seq.*, and amendments thereto. *The provisions of this*
5 *paragraph shall not be applicable to tax year 2002.*

6 *Sixth.* All real property and tangible personal property actually and
7 regularly used exclusively for the purpose of group housing of mentally
8 ill or retarded and other handicapped persons which is operated by a
9 corporation organized not for profit under the laws of the state of Kansas
10 or by a corporation organized not for profit under the laws of another
11 state and duly admitted to engage in business in this state as a foreign,
12 not-for-profit corporation, in which charges to residents produce an
13 amount which in the aggregate is less than the actual cost of operation of
14 the housing facility or the services of which are provided to residents at
15 the lowest feasible cost, taking into consideration such items as reasonable
16 depreciation and interest on indebtedness and contributions to which are
17 deductible under the Kansas income tax act, and which is licensed as a
18 facility for the housing of mentally ill or retarded and other handicapped
19 persons under the provisions of K.S.A. 75-3307b, and amendments
20 thereto, or as a rooming or boarding house used as a facility for the
21 housing of mentally retarded and other handicapped persons which is
22 licensed as a lodging establishment under the provisions of K.S.A. 36-501
23 *et seq.*, and amendments thereto.

24 The provisions of this section, except as otherwise specifically provided,
25 shall apply to all taxable years commencing after December 31, 1998.

26 Sec. 3. K.S.A. 2001 Supp. 79-201 and 79-201b are hereby repealed.

27 Sec. 4. This act shall take effect and be in force from and after its
28 publication in the statute book.

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