

## SENATE BILL No. 255

By Committee on Ways and Means

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AN ACT concerning taxation; relating to reduction of valuation of real property; amendment of tax rolls; protesting the payment of taxes; amending K.S.A. 2002 Supp. 79-1460 and 79-2005 and repealing the existing sections.

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

Section 1. K.S.A. 2002 Supp. 79-1460 is hereby amended to read as follows: 79-1460. (a) The county appraiser shall notify each taxpayer in the county annually on or before March 1 for real property and May 1 for personal property, by mail directed to the taxpayer's last known address, of the classification and appraised valuation of the taxpayer's property, except that, the valuation for all real property shall not be increased unless: (1) The record of the latest physical inspection was reviewed by the county or district appraiser, and documentation exists to support such increase in valuation in compliance with the directives and specifications of the director of property valuation, and such record and documentation is available to the affected taxpayer; and (2) for the taxable year next following the taxable year that the valuation for real property has been reduced due to a final determination made pursuant to the valuation appeals process, documented substantial and compelling reasons exist therefor and are provided by the county appraiser. *When the valuation for real property has been reduced due to a final determination made pursuant to the valuation appeals process for the prior year, and the county appraiser has already certified the tax rolls for the current year to the county clerk pursuant to K.S.A. 79-1412a and amendments thereto, the county appraiser may amend the tax rolls to implement the provisions of this subsection and reduce the valuation of the real property to the prior year's final determination, except that the county appraiser may not amend the tax rolls as provided in this subsection after October 31 of the current year.* For the purposes of this section and in the case of real property, the term "taxpayer" shall be deemed to be the person in ownership of the property as indicated on the records of the office of register of deeds or county clerk and, in the case where the real property or improvement thereon is the subject of a lease agreement, such term shall also be deemed to include the lessee of such property if the lease agree-

1 ment has been recorded or filed in the office of the register of deeds.  
2 Such notice shall specify separately both the previous and current ap-  
3 praised and assessed values for each property class identified on the par-  
4 cel. Such notice shall also contain the uniform parcel identification num-  
5 ber prescribed by the director of property valuation. Such notice shall  
6 also contain a statement of the taxpayer's right to appeal, the procedure  
7 to be followed in making such appeal and the availability without charge  
8 of the guide devised pursuant to subsection (b). Such notice may, and if  
9 the board of county commissioners so require, shall provide the parcel  
10 identification number, address and the sale date and amount of any or all  
11 sales utilized in the determination of appraised value of residential real  
12 property. In any year in which no change in appraised valuation of any  
13 real property from its appraised valuation in the next preceding year is  
14 determined, an alternative form of notification which has been approved  
15 by the director of property valuation may be utilized by a county. Failure  
16 to timely mail or receive such notice shall in no way invalidate the clas-  
17 sification or appraised valuation as changed. The secretary of revenue  
18 shall adopt rules and regulations necessary to implement the provisions  
19 of this section.

20 (b) For all taxable years commencing after December 31, 1999, there  
21 shall be provided to each taxpayer, upon request, a guide to the property  
22 tax appeals process. The director of the division of property valuation  
23 shall devise and publish such guide, and shall provide sufficient copies  
24 thereof to all county appraisers. Such guide shall include but not be lim-  
25 ited to: (1) A restatement of the law which pertains to the process and  
26 practice of property appraisal methodology, including the contents of  
27 K.S.A. 79-503a and 79-1460, and amendments thereto; (2) the procedures  
28 of the appeals process, including the order and burden of proof of each  
29 party and time frames required by law; and (3) such other information  
30 deemed necessary to educate and enable a taxpayer to properly and com-  
31 petently pursue an appraisal appeal.

32 Sec. 2. K.S.A. 2002 Supp. 79-2005 is hereby amended to read as  
33 follows: 79-2005. (a) Any taxpayer, before protesting the payment of such  
34 taxpayer's taxes, shall be required, either at the time of paying such taxes,  
35 or, if the whole or part of the taxes are paid prior to December 20, no  
36 later than December 20, or, with respect to taxes paid in whole *or in part*  
37 *in an amount equal to at least 1/2 of such taxes* on or before December  
38 20 by an escrow or tax service agent, no later than January 31 of the next  
39 year, to file a written statement with the county treasurer, on forms ap-  
40 proved by the state board of tax appeals and provided by the county  
41 treasurer, clearly stating the grounds on which the whole or any part of  
42 such taxes are protested and citing any law, statute or facts on which such  
43 taxpayer relies in protesting the whole or any part of such taxes. When

1 the grounds of such protest is that the valuation or assessment of the  
2 property upon which the taxes are levied is illegal or void, the county  
3 treasurer shall forward a copy of the written statement of protest to the  
4 county appraiser who shall within 15 days of the receipt thereof, schedule  
5 an informal meeting with the taxpayer or such taxpayer's agent or attorney  
6 with reference to the property in question. The county appraiser shall  
7 review the appraisal of the taxpayer's property with the taxpayer or such  
8 taxpayer's agent or attorney and may change the valuation of the tax-  
9 payer's property, if in the county appraiser's opinion a change in the  
10 valuation of the taxpayer's property is required to assure that the tax-  
11 payer's property is valued according to law, and shall, within 15 business  
12 days thereof, notify the taxpayer in the event the valuation of the tax-  
13 payer's property is changed, in writing of the results of the meeting. In  
14 the event the valuation of the taxpayer's property is changed and such  
15 change requires a refund of taxes and interest thereon, the county trea-  
16 surer shall process the refund in the manner provided by subsection (l).

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

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

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

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

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

1 (g) Within 30 days after notification of the results of the informal  
2 meeting with the county appraiser pursuant to subsection (a), the pro-  
3 testing taxpayer may, if aggrieved by the results of the informal meeting  
4 with the county appraiser, appeal such results to the state board of tax  
5 appeals.

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

15 (i) In the event of a hearing, the same shall be originally set not later  
16 than 90 days after the filing of the copy of the written statement of protest  
17 and a copy, when applicable, of the written notification of the results of  
18 the informal meeting with the county appraiser with the board. With  
19 regard to any matter properly submitted to the board relating to the  
20 determination of valuation of residential property or real property used  
21 for commercial and industrial purposes for taxation purposes, it shall be  
22 the duty of the county appraiser to initiate the production of evidence to  
23 demonstrate, by a preponderance of the evidence, the validity and cor-  
24 rectness of such determination except that no such duty shall accrue to  
25 the county or district appraiser with regard to leased commercial and  
26 industrial property unless the property owner has furnished to the county  
27 or district appraiser a complete income and expense statement for the  
28 property for the three years next preceding the year of appeal. No pre-  
29 sumption shall exist in favor of the county appraiser with respect to the  
30 validity and correctness of such determination. In all instances where the  
31 board sets a request for hearing and requires the representation of the  
32 county by its attorney or counselor at such hearing, the county shall be  
33 represented by its county attorney or counselor.

34 (j) When a determination is made as to the merits of the tax protest,  
35 the board shall render and serve its order thereon. The county treasurer  
36 shall notify all affected taxing districts of the amount by which tax reve-  
37 nues will be reduced as a result of a refund.

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

43 (l) (1) In the event the board orders that a refund be made pursuant

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

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

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

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

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

1 Sec. 3. K.S.A. 2002 Supp. 79-1460 and 79-2005 are hereby repealed.

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

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