

**HOUSE BILL No. 2559**

By Committee on Taxation

1-22

10 AN ACT concerning property taxation; relating to listing and valuation  
11 of buildings and improvements; **[assessment and payment of cer-**  
12 **tain taxes, distribution by county treasurer;]** amending **[K.S.A.**  
13 **79-332a and 79-1427a and]** K.S.A. 2003 Supp. 79-412 **[and 79-**  
14 **2005]** and repealing the existing ~~section~~ **[sections]**.  
15

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

17 Section 1. **[On and after July 1, 2004,]** K.S.A. 2003 Supp. 79-412  
18 is hereby amended to read as follows: 79-412. It shall be the duty of the  
19 county or district appraiser to value the land and improvements, ~~but~~ The  
20 value of the land and improvements shall be entered on the assessment  
21 roll in a single aggregate, except as hereinafter provided. Improvements  
22 owned by entities other than the owner of the land shall be assessed to  
23 the owners of such improvements, if the lease agreement has been re-  
24 corded or filed in the office of the register of deeds. *The words "building*  
25 *on leased ground" shall appear on the first page of the lease agreement.*  
26 *It shall be the responsibility of the person recording or filing the lease*  
27 *agreement to include such words as provided in this section. Failure to*  
28 *include such words as provided in this section may result in such im-*  
29 *provements being assessed to the owner of the land. As used in this section,*  
30 *the term "person" means any individual, business, domestic or foreign*  
31 *corporation, partnership or association. Delinquent taxes imposed on*  
32 *such improvements may be collected by levy and sale of the interests of*  
33 *such owners the same as in cases of the collection of taxes on personal*  
34 *property.*

35 **[Sec. 2. K.S.A. 79-332a is hereby amended to read as follows:**  
36 **79-332a. (a) Any person, corporation or association owning oil and**  
37 **gas leases or engaged in operating for oil or gas who fails to make**  
38 **and file a statement of assessment on or before April 1 shall be**  
39 **subject to a penalty as follows:**

40 **[(1) The appraiser shall, after having ascertained the assessed**  
41 **value of the property of such taxpayer, add 5% thereto as a penalty**  
42 **for late filing if the failure is not for more than one month, with**  
43 **an additional 5% for each additional month or fraction thereof**

1 **during which such failure continues, not exceeding 25% in the**  
2 **aggregate.**

3 [(2) **If the statement of assessment is filed more than one year**  
4 **from April 1, the appraiser shall, after having ascertained the as-**  
5 **essed value of the property of such taxpayer, add 50% thereto as**  
6 **a penalty for late filing.** *The county treasurer shall not distribute any*  
7 *taxes assessed under this section and paid under protest by the taxpayer*  
8 *pursuant to K.S.A. 79-2005, and amendments thereto, until such time as*  
9 *the appeal is final.*

10 [(b) **For good cause shown the county appraiser may extend**  
11 **the time in which to make and file such statement. Such request**  
12 **for extension of time shall be in writing and shall be received by**  
13 **the county appraiser prior to the due date of the statement of**  
14 **assessment.**

15 [(c) **Whenever any person, corporation or association owning**  
16 **oil and gas leases or engaged in operating for oil or gas shall fail**  
17 **to make and deliver to the county appraiser of every county**  
18 **wherein the property to be assessed is located, a full and complete**  
19 **statement of assessment relative to such property as required by**  
20 **blank forms prepared or approved for the purpose by the director**  
21 **of property valuation to elicit the information necessary to fix the**  
22 **valuation of the property, the appraiser shall ascertain the assessed**  
23 **value of the property of such taxpayer, and shall add 50% thereto**  
24 **as a penalty for failing to file such statement.**

25 [(d) **The board of tax appeals shall have the authority to abate**  
26 **any penalty imposed under the provisions of this section and order**  
27 **the refund of the abated penalty, whenever excusable neglect on**  
28 **the part of the person, corporation or association required to make**  
29 **and file the statement of assessment is shown, or whenever the**  
30 **property for which a statement of assessment was not filed as re-**  
31 **quired by law is repossessed, judicially or otherwise, by a secured**  
32 **creditor and such secured creditor pays the taxes and interest due.**

33 [Sec. 3. **K.S.A. 79-1427a is hereby amended to read as follows:**  
34 **79-1427a. (a) If, the county appraiser discovers, after the tax roll**  
35 **has been certified to the county clerk, that any tangible personal**  
36 **property subject to taxation has been omitted from the tax rolls,**  
37 **the county clerk shall place such property on the tax roll as an**  
38 **added tax, or if, after one year from the date prescribed by K.S.A.**  
39 **79-306, and amendments thereto, for the listing of tangible per-**  
40 **sonal property, the county appraiser discovers that any tangible**  
41 **personal property which was subject to taxation in any year or**  
42 **years within two years next preceding January 1 of the calendar**  
43 **year in which it was discovered has not been listed or has been**

1 underreported for whatever reason, such property shall be  
2 deemed to have escaped taxation. In the case of property which  
3 has not been listed, it shall be the duty of the county appraiser to  
4 list and appraise such property and, for an added tax, add penalties  
5 as prescribed in K.S.A. 79-1422, and amendments thereto, and  
6 which shall be designated on the appraisal roll as an added ap-  
7 praisal for that year. In the case of property which has escaped  
8 taxation, it shall be the duty of the county appraiser to list and  
9 appraise such property and add 50% thereto as a penalty for es-  
10 caping taxation for each such year during which such property was  
11 not listed, and it shall be designated on the appraisal roll as “es-  
12 caped appraisal” for each such preceding year or years. In the case  
13 of property which has been listed but underreported, it shall be  
14 the duty of the county appraiser to list and appraise the underre-  
15 ported portion of such property and add 50% thereto as a penalty  
16 for escaping taxation for each such year during which such prop-  
17 erty was underreported, and it shall be designated on the appraisal  
18 roll as “escaped appraisal” for each such preceding year or years.  
19 The county clerk, upon receipt of the valuation for such property  
20 in either of the aforementioned cases, shall place such property on  
21 the tax rolls and compute the amount of tax due based upon the  
22 mill levy for the year or years in which such tax should have been  
23 levied, and shall certify such amount to the county treasurer as an  
24 added or escaped appraisal. The amount of such tax shall be due  
25 immediately and payable within 45 days after the issuance of an  
26 additional or escaped property tax bill by the county treasurer. *The*  
27 *county treasurer shall not distribute any taxes assessed under this section*  
28 *and paid under protest by the taxpayer pursuant to K.S.A. 79-2005, and*  
29 *amendments thereto, until such time as the appeal is final. No interest*  
30 *shall be imposed unless the tax remains unpaid after such 45 day*  
31 *period. Taxes levied pursuant to this section which remain unpaid*  
32 *after such 45 day period shall be deemed delinquent and the*  
33 *county treasurer shall collect and distribute such tax in the same*  
34 *manner as prescribed by law for the collection and distribution of*  
35 *other taxes levied upon property which are delinquent. If the*  
36 *owner of such property is deceased, taxes charged as herein pro-*  
37 *vided shall be levied against the estate of such deceased person*  
38 *for only two calendar years preceding death and shall be paid by*  
39 *the legal representative or representatives of such estate. In the*  
40 *event that such escaped appraisal is due to any willful or clerical*  
41 *error of the county appraiser, such property shall be appraised at*  
42 *its fair market value and no penalty shall be added.*

43 [(b) A taxpayer with a grievance as to any penalty applied pur-

1 suant to the provisions of this section, may appeal to the state  
2 board of tax appeals on forms prepared by the state board of tax  
3 appeals and provided by the county appraiser. The state board of  
4 tax appeals shall have the authority to abate any penalty imposed  
5 under the provisions of this section and order the refund of the  
6 abated penalty, whenever excusable neglect on the part of the per-  
7 son required to make and file the statement listing property for  
8 assessment and taxation purposes is shown, or whenever the prop-  
9 erty which has been deemed to have escaped taxation is reposs-  
10 sessed, judicially or otherwise, by a secured creditor and such  
11 creditor pays the taxes and interest due. No interest shall be as-  
12 sessed during the pendency of this appeal.

13 [(c) The provisions of this section shall apply to any tangible  
14 personal property discovered during the calendar years 1982,  
15 1983, 1984 and any year thereafter to have escaped appraisal and  
16 taxation during any such year or any year within two years next  
17 preceding any such year.

18 [Sec. 4. K.S.A. 2003 Supp. 79-2005 is hereby amended to read  
19 as follows: 79-2005. (a) Any taxpayer, before protesting the pay-  
20 ment of such taxpayer's taxes, shall be required, either at the time  
21 of paying such taxes, or, if the whole or part of the taxes are paid  
22 prior to December 20, no later than December 20, or, with respect  
23 to taxes paid in whole on or before December 20 by an escrow or  
24 tax service agent, no later than January 31 of the next year, to file  
25 a written statement with the county treasurer, on forms approved  
26 by the state board of tax appeals and provided by the county trea-  
27 surer, clearly stating the grounds on which the whole or any part  
28 of such taxes are protested and citing any law, statute or facts on  
29 which such taxpayer relies in protesting the whole or any part of  
30 such taxes. *When the grounds of such protest is an assessment of taxes*  
31 *made pursuant to K.S.A. 79-332a and 79-1427a, and amendments thereto,*  
32 *the county treasurer shall not distribute the taxes paid under protest until*  
33 *such time as the appeal is final. When the grounds of such protest is*  
34 *that the valuation or assessment of the property upon which the*  
35 *taxes are levied is illegal or void, the county treasurer shall forward*  
36 *a copy of the written statement of protest to the county appraiser*  
37 *who shall within 15 days of the receipt thereof, schedule an infor-*  
38 *mal meeting with the taxpayer or such taxpayer's agent or attorney*  
39 *with reference to the property in question. The county appraiser*  
40 *shall review the appraisal of the taxpayer's property with the tax-*  
41 *payer or such taxpayer's agent or attorney and may change the*  
42 *valuation of the taxpayer's property, if in the county appraiser's*  
43 *opinion a change in the valuation of the taxpayer's property is re-*

1 required to assure that the taxpayer's property is valued according  
2 to law, and shall, within 15 business days thereof, notify the tax-  
3 payer in the event the valuation of the taxpayer's property is  
4 changed, in writing of the results of the meeting. In the event the  
5 valuation of the taxpayer's property is changed and such change  
6 requires a refund of taxes and interest thereon, the county trea-  
7 surer shall process the refund in the manner provided by subsec-  
8 tion (l).

9 [(b) No protest appealing the valuation or assessment of prop-  
10 erty shall be filed pertaining to any year's valuation or assessment  
11 when an appeal of such valuation or assessment was commenced  
12 pursuant to K.S.A. 79-1448, and amendments thereto, nor shall the  
13 second half payment of taxes be protested when the first half pay-  
14 ment of taxes has been protested. Notwithstanding the foregoing,  
15 this provision shall not prevent any subsequent owner from pro-  
16 testing taxes levied for the year in which such property was ac-  
17 quired, nor shall it prevent any taxpayer from protesting taxes  
18 when the valuation or assessment of such taxpayer's property has  
19 been changed pursuant to an order of the director of property  
20 valuation.

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

26 [(d) If the grounds of such protest shall be that the valuation  
27 or assessment of the property upon which the taxes so protested  
28 are levied is illegal or void, such statement shall further state the  
29 exact amount of valuation or assessment which the taxpayer admits  
30 to be valid and the exact portion of such taxes which is being  
31 protested.

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

35 [(f) Upon the filing of a written statement of protest, the  
36 grounds of which shall be that any tax levied, or any part thereof,  
37 is illegal, the county treasurer shall mail a copy of such written  
38 statement of protest to the state board of tax appeals and the gov-  
39 erning body of the taxing district making the levy being protested.

40 [(g) Within 30 days after notification of the results of the in-  
41 formal meeting with the county appraiser pursuant to subsection  
42 (a), the protesting taxpayer may, if aggrieved by the results of the  
43 informal meeting with the county appraiser, appeal such results to

1 the state board of tax appeals.

2 [(h) After examination of the copy of the written statement of  
3 protest and a copy of the written notification of the results of the  
4 informal meeting with the county appraiser in cases where the  
5 grounds of such protest is that the valuation or assessment of the  
6 property upon which the taxes are levied is illegal or void, the  
7 board shall conduct a hearing in accordance with the provisions of  
8 the Kansas administrative procedure act, unless waived by the in-  
9 terested parties in writing. If the grounds of such protest is that  
10 the valuation or assessment of the property is illegal or void the  
11 board shall notify the county appraiser thereof.

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

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

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

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

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

20 [(2) No interest shall be allowed pursuant to paragraph (1) in  
21 any case where the tax paid under protest was inclusive of delin-  
22 quent taxes.

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

37 [(n) The county treasurer shall disburse to the proper funds all  
38 portions of taxes paid under protest and shall maintain a record of  
39 all portions of such taxes which are so protested and shall notify  
40 the governing body of the taxing district levying such taxes thereof  
41 and the director of accounts and reports if any tax protested was  
42 levied by the state.

43 [(o) This statute shall not apply to the valuation and assessment

1 **of property assessed by the director of property valuation and it**  
2 **shall not be necessary for any owner of state assessed property,**  
3 **who has an appeal pending before the board of tax appeals, to**  
4 **protest the payment of taxes under this statute solely for the pur-**  
5 **pose of protecting the right to a refund of taxes paid under protest**  
6 **should that owner be successful in that appeal.**

7 **[Sec. 5. K.S.A. 79-332a and 79-1427a and K.S.A. 2003 Supp.**  
8 **79-2005 are hereby repealed.]**

9 ~~Sec. 2. [6.] [On and after July 1, 2004,]~~ K.S.A. 2003 Supp. 79-412  
10 is hereby repealed.

11 ~~Sec. 3. [7.]~~ This act shall take effect and be in force from and after  
12 its publication in the ~~statute book~~ **[Kansas register]**.