

HOUSE BILL No. 2701

By Committee on Taxation

2-4

AN ACT concerning property taxation; relating to exemptions; certain personal property; amending K.S.A. 2003 Supp. 79-213 and repealing the existing section; also repealing K.S.A. 2003 Supp. 79-213c.

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

Section 1. K.S.A. 2003 Supp. 79-213 is hereby amended to read as follows: 79-213. (a) Any property owner requesting an exemption from the payment of ad valorem property taxes assessed, or to be assessed, against their property shall be required to file an initial request for exemption, on forms approved by the board of tax appeals and provided by the county appraiser.

(b) The initial exemption request shall identify the property for which the exemption is requested and state, in detail, the legal and factual basis for the exemption claimed.

(c) The request for exemption shall be filed with the county appraiser of the county where such property is principally located.

(d) After a review of the exemption request, and after a preliminary examination of the facts as alleged, the county appraiser shall recommend that the exemption request either be granted or denied, and, if necessary, that a hearing be held. If a denial is recommended, a statement of the controlling facts and law relied upon shall be included on the form.

(e) The county appraiser, after making such written recommendation, shall file the request for exemption and the recommendations of the county appraiser with the board of tax appeals.

(f) Upon receipt of the request for exemption, the board shall docket the same and notify the applicant and the county appraiser of such fact.

(g) After examination of the request for exemption, and the county appraiser's recommendation related thereto, the board may fix a time and place for hearing, and shall notify the applicant and the county appraiser of the time and place so fixed. A request for exemption pursuant to: (1) Section 13 of article 11 of the Kansas constitution; or (2) K.S.A. 79-201a *Second*, and amendments thereto, for property constructed or purchased, in whole or in part, with the proceeds of revenue bonds under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, prepared in accordance with instructions and assistance which shall be

1 provided by the department of commerce ~~and housing~~, shall be deemed
2 approved unless scheduled for hearing within 30 days after the date of
3 receipt of all required information and data relating to the request for
4 exemption, and such hearing shall be conducted within 90 days after such
5 date. Such time periods shall be determined without regard to any ex-
6 tension or continuance allowed to either party to such request. In any
7 case where a party to such request for exemption requests a hearing
8 thereon, the same shall be granted. Hearings shall be conducted in ac-
9 cordance with the provisions of the Kansas administrative procedure act.
10 In all instances where the board sets a request for exemption for hearing,
11 the county shall be represented by its county attorney or county
12 counselor.

13 (h) Except as otherwise provided by subsection (g), in the event of a
14 hearing, the same shall be originally set not later than 90 days after the
15 filing of the request for exemption with the board.

16 (i) During the pendency of a request for exemption, no person, firm,
17 unincorporated association, company or corporation charged with real
18 estate or personal property taxes pursuant to K.S.A. 79-2004 and 79-
19 2004a, and amendments thereto, on the tax books in the hands of the
20 county treasurer shall be required to pay the tax from the date the request
21 is filed with the county appraiser until the expiration of 30 days after the
22 board issued its order thereon and the same becomes a final order. In
23 the event that taxes have been assessed against the subject property, no
24 interest shall accrue on any unpaid tax for the year or years in question
25 nor shall the unpaid tax be considered delinquent from the date the re-
26 quest is filed with the county appraiser until the expiration of 30 days
27 after the board issued its order thereon. In the event the board deter-
28 mines an application for exemption is without merit and filed in bad faith
29 to delay the due date of the tax, the tax shall be considered delinquent
30 as of the date the tax would have been due pursuant to K.S.A. 79-2004
31 and 79-2004a, and amendments thereto, and interest shall accrue as pre-
32 scribed therein.

33 (j) In the event the board grants the initial request for exemption,
34 the same shall be effective beginning with the date of first exempt use
35 except that, with respect to property the construction of which com-
36 menced not to exceed 24 months prior to the date of first exempt use,
37 the same shall be effective beginning with the date of commencement of
38 construction.

39 (k) In conjunction with its authority to grant exemptions, the board
40 shall have the authority to abate all unpaid taxes that have accrued from
41 and since the effective date of the exemption. In the event that taxes have
42 been paid during the period where the subject property has been deter-
43 mined to be exempt, the board shall have the authority to order a refund

1 of taxes for the year immediately preceding the year in which the ex-
2 emption application is filed in accordance with subsection (a).

3 (1) The provisions of this section shall not apply to: (1) Farm machin-
4 ery and equipment exempted from ad valorem taxation by K.S.A. 79-201j,
5 and amendments thereto; (2) personal property exempted from ad valo-
6 rem taxation by K.S.A. 79-215, and amendments thereto; (3) wearing
7 apparel, household goods and personal effects exempted from ad valorem
8 taxation by K.S.A. 79-201c, and amendments thereto; (4) livestock; (5)
9 hay and silage exempted from ad valorem taxation by K.S.A. 79-201d, and
10 amendments thereto; (6) merchants' and manufacturers' inventories ex-
11 empted from ad valorem taxation by K.S.A. 79-201m and amendments
12 thereto; (7) grain exempted from ad valorem taxation by K.S.A. 79-201n,
13 and amendments thereto; (8) property exempted from ad valorem taxa-
14 tion by K.S.A. 79-201a *Seventeenth* and amendments thereto, including
15 all property previously acquired by the secretary of transportation or a
16 predecessor in interest, which is used in the administration, construction,
17 maintenance or operation of the state system of highways. The secretary
18 of transportation shall at the time of acquisition of property notify the
19 county appraiser in the county in which the property is located that the
20 acquisition occurred and provide a legal description of the property ac-
21 quired; (9) property exempted from ad valorem taxation by K.S.A. 79-
22 201a *Ninth*, and amendments thereto, including all property previously
23 acquired by the Kansas turnpike authority which is used in the adminis-
24 tration, construction, maintenance or operation of the Kansas turnpike.
25 The Kansas turnpike authority shall at the time of acquisition of property
26 notify the county appraiser in the county in which the property is located
27 that the acquisition occurred and provide a legal description of the prop-
28 erty acquired; (10) aquaculture machinery and equipment exempted from
29 ad valorem taxation by K.S.A. 79-201j, and amendments thereto. As used
30 in this section, "aquaculture" has the same meaning ascribed thereto by
31 K.S.A. 47-1901, and amendments thereto; (11) Christmas tree machinery
32 and equipment exempted from ad valorem taxation by K.S.A. 79-201j,
33 and amendments thereto; (12) property used exclusively by the state or
34 any municipality or political subdivision of the state for right-of-way pur-
35 poses. The state agency or the governing body of the municipality or
36 political subdivision shall at the time of acquisition of property for right-
37 of-way purposes notify the county appraiser in the county in which the
38 property is located that the acquisition occurred and provide a legal de-
39 scription of the property acquired; (13) machinery, equipment, materials
40 and supplies exempted from ad valorem taxation by K.S.A. 79-201w, and
41 amendments thereto; (14) vehicles owned by the state or by any political
42 or taxing subdivision thereof and used exclusively for governmental pur-
43 poses; (15) property used for residential purposes which is exempted pur-

1 suant to K.S.A. 79-201x from the property tax levied pursuant to K.S.A.
2 72-6431, and amendments thereto; (16) from and after July 1, 1998, ve-
3 hicles which are owned by an organization having as one of its purposes
4 the assistance by the provision of transit services to the elderly and to
5 disabled persons and which are exempted pursuant to K.S.A. 79-201
6 Ninth; ~~and~~ (17) from and after July 1, 1998, motor vehicles exempted
7 from taxation by subsection (e) of K.S.A. 79-5107, and amendments
8 thereto; *and (18) personal property that replaces personal property or*
9 *serves the same exempt purpose as personal property previously exempted*
10 *from taxation by the board pursuant to K.S.A. 79-201, 79-201a and 79-*
11 *201b, and amendments thereto, except that the provisions of this subsec-*
12 *tion shall not apply to personal property subject to the annual claim pro-*
13 *visions of K.S.A. 79-210, and amendments thereto.*

14 (m) The provisions of this section shall apply to property exempt pur-
15 suant to the provisions of section 13 of article 11 of the Kansas
16 constitution.

17 (n) The provisions of subsection (k) as amended by this act shall be
18 applicable to all exemption applications filed in accordance with subsec-
19 tion (a) after December 31, 2001.

20 Sec. 2. K.S.A. 2003 Supp. 79-213 and 79-213c are hereby repealed.

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

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