

## HOUSE BILL No. 2150

By Representatives Brunk and A. Brown, Carlson, Crum, DeGraaf, Donohoe, Goico, Grange, Hermanson, M. Holmes, Horst, Huebert, Jack, Kerschen, Kiegerl, Kinzer, Landwehr, McLeland, Myers, O'Brien, Olson, Patton, Peck, Rhoades and Siegfried

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12 AN ACT concerning property taxation; relating to valuation and assess-  
13 ment; amending K.S.A. 79-411, 79-501, 79-5a04 and 79-1439a and  
14 K.S.A. 2008 Supp. 79-412, 79-1439, 79-1448 and 79-1606 and repeal-  
15 ing the existing sections.

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

18 New Section 1. For the purposes of this act: (a) The term “baseline  
19 value” means the then appraised value of a piece of taxable property as  
20 of January 1, 2010, or, as of the date the property initially appears on the  
21 tax rolls, whichever occurs last.

22 (b) The term “taxable property” means all property defined as class  
23 1 property by article XI, section 1, of the Kansas Constitution, except for  
24 property which would be properly classified under subclass 2 of class 1  
25 in article XI, section 1, of the Kansas Constitution.

26 (c) The term “adjusted baseline value” means the baseline value of a  
27 piece of taxable property, compounded annually by 2%.

28 New Sec. 2. (a) For the purposes of subsection (a) of article XI, sec-  
29 tion 1, of the Kansas Constitution, the term “value” means the adjusted  
30 baseline value of the taxable property.

31 (b) Whenever there is a change in ownership of a piece of taxable  
32 property, the property shall retain the then current adjusted baseline  
33 value. No reappraisal of property allowed by K.S.A. 79-1413a, and amend-  
34 ments thereto, shall be permitted due solely to a change in ownership.

35 New Sec. 3. (a) Improvements to property shall be valued by taking  
36 all like zoned improvements within a radius of the subject property meas-  
37 uring 200 feet inside city limits and a radius measuring 1,000 feet outside  
38 such limits and determining an average baseline or adjusted baseline value  
39 per square foot. That average square foot value shall then be applied to  
40 the improvement to assess a new baseline value. If the improvement is  
41 the result of redevelopment of one or more parcels of land, any actual  
42 and reasonable expenses incurred by the property owner to demolish any  
43 former improvement or improvements located on the parcel or parcels,

1 shall be subtracted from the baseline value of the new improvement.

2 (b) In the case of real property which has been rezoned, all like zoned  
3 real property within a radius of the subject property measuring 200 feet  
4 inside city limits and a radius measuring 1,000 feet outside such limits  
5 shall be taken and an average baseline or adjusted baseline value per  
6 square foot shall be determined. That average square foot value shall then  
7 be applied to the subject property to assess a new baseline value.

8 (c) Should no like zoned improvements or properties be found within  
9 the limits described in subsections (a) and (b) of this section, the average  
10 square foot value to be applied shall be that of the average of the 10  
11 nearest like zoned improvements or properties, as the case may be, within  
12 the state of Kansas, regardless of distance.

13 Sec. 4. K.S.A. 79-411 is hereby amended to read as follows: 79-411.  
14 *Unless otherwise specifically provided by this act*, the appraiser from ac-  
15 tual view and inspection or from statistical methods prescribed by the  
16 director of property valuation, from consultation with the owner or agent  
17 thereof if expedient and from such other sources of information as are  
18 within the appraiser's reach, shall determine as nearly as is practicable  
19 the fair market value in money of all taxable real property within the  
20 county and assess the same as required in K.S.A. 79-1439, and amend-  
21 ments thereto.

22 Sec. 5. K.S.A. 2008 Supp. 79-412 is hereby amended to read as fol-  
23 lows: 79-412. It shall be the duty of the county or district appraiser to  
24 value the land and improvements. The value of the land and improve-  
25 ments shall be entered on the assessment roll ~~in a single aggregate, except~~  
26 ~~as hereinafter provided~~ *separately, unless otherwise specifically provided.*  
27 Improvements owned by entities other than the owner of the land shall  
28 be assessed to the owners of such improvements, if the lease agreement  
29 has been recorded or filed in the office of the register of deeds. The  
30 words "building on leased ground" shall appear on the first page of the  
31 lease agreement. It shall be the responsibility of the person recording or  
32 filing the lease agreement to include such words as provided in this sec-  
33 tion. Failure to include such words as provided in this section may result  
34 in such improvements being assessed to the owner of the land. As used  
35 in this section, the term "person" means any individual, business, do-  
36 mestic or foreign corporation, partnership or association. Delinquent  
37 taxes imposed on such improvements may be collected by levy and sale  
38 of the interests of such owners the same as in cases of the collection of  
39 taxes on personal property.

40 Sec. 6. K.S.A. 79-501 is hereby amended to read as follows: 79-501.  
41 *Unless otherwise specifically provided by this act*, each parcel of real  
42 property shall be appraised at its fair market value in money, the value  
43 thereof to be determined by the appraiser from actual view and inspection

1 of the property. The price at which such real property would sell at forced  
2 sale may be taken as a criterion of such fair market value in money in the  
3 market place of such sale if the appraiser believes such price to be a  
4 reasonable factor in arriving at fair market value. The price at which real  
5 property would sell at auction may be taken as the criterion of fair market  
6 value in money if the appraiser determines such sale to be an arms-length  
7 transaction between a willing buyer and seller. In addition, land devoted  
8 to agricultural use shall be valued as provided by K.S.A. 79-1476, and  
9 amendments thereto. Tangible personal property shall be appraised at its  
10 fair market value in money except as provided by K.S.A. 79-1439, and  
11 amendments thereto. All such real and tangible personal property shall  
12 be assessed at the rate prescribed by K.S.A. 79-1439, and amendments  
13 thereto.

14 Sec. 7. K.S.A. 79-5a04 is hereby amended to read as follows: 79-  
15 5a04. The director of property valuation shall annually determine the fair  
16 market value of public utility *personal* property, ~~both real and personal,~~  
17 tangible and intangible, of every public utility as defined in subsection (a)  
18 of K.S.A. 79-5a01 and amendments thereto.

19 As used in this section, "fair market value" means the amount in terms  
20 of money that a well informed buyer is justified in paying and a well  
21 informed seller is justified in accepting for property in an open and com-  
22 petitive market, assuming that the parties are acting without undue com-  
23 pulsion. For the purposes of this definition, it shall be assumed that con-  
24 summation of a sale occurs as of January 1.

25 The division of property valuation in determining the fair market value  
26 of public utility property shall, where practicable, determine the unit val-  
27 uation, allocated to Kansas, and in doing so shall use generally accepted  
28 appraisal procedures developed through the appraisal process and may  
29 consider, including but not by way of exclusion, the following factors:

30 (a) Original cost.

31 (b) Original cost less depreciation or reproduction cost less depreci-  
32 ation, or both, or replacement cost new less depreciation, except that  
33 where either method is used proper allowance and deduction shall be  
34 made for functional or economic obsolescence and for operation of non-  
35 profitable facilities which necessitate regulatory body approval to  
36 eliminate.

37 (c) The market or actual value of all outstanding capital stock and  
38 debt.

39 (d) The utility operating income, capitalized in the manner and at  
40 such rate or rates as shall be just and reasonable.

41 (e) Such other information or evidence as to value as may be obtained  
42 that will enable the property valuation department to determine the fair  
43 market value of the property of such public utility.

1 The fair market value of affiliated properties separately assessed, or the  
2 nonoperating properties of such companies, or both, shall be ascertained  
3 and determined as nearly as possible and deducted from the total unit  
4 value of the properties of such companies if such properties are included  
5 in the unit value. Except for the property of any entity enumerated in  
6 subsection (b) of K.S.A. 79-5a01 and amendments thereto, and insofar as  
7 it is practicable to do so, the same method of evaluating the properties  
8 of the companies separately assessed or nonoperating properties, or both,  
9 shall be used as was used in determining the unit value of such companies.  
10 All property of any entity enumerated in subsection (b) of K.S.A. 79-5a01  
11 and amendments thereto, shall be valued by the county or district ap-  
12 praiser in the same manner as provided by law for the valuation of the  
13 same type or class of property in the county.

14 Sec. 8. K.S.A. 2008 Supp. 79-1439 is hereby amended to read as  
15 follows: 79-1439. (a) All real and tangible personal property which is sub-  
16 ject to general ad valorem taxation shall be appraised uniformly and  
17 equally as to class and, unless otherwise specified herein, shall be ap-  
18 praised at its fair market value, as defined in K.S.A. 79-503a, and amend-  
19 ments thereto.

20 (b) Property shall be classified into the following classes and assessed  
21 at the percentage of value prescribed therefor:

22 (1) *The following* real property shall be assessed as to subclass at the  
23 following percentages of *adjusted baseline* value:

24 (A) Real property used for residential purposes including multi-fam-  
25 ily residential real property, real property necessary to accommodate a  
26 residential community of mobile or manufactured homes including the  
27 real property upon which such homes are located, residential real prop-  
28 erty used partially for day care home purposes if such home has been  
29 registered or licensed pursuant to K.S.A. 65-501 et seq., and amendments  
30 thereto, and residential real property used partially for bed and breakfast  
31 home purposes at 11.5%. As used in this paragraph "bed and breakfast  
32 home" means a residence with five or fewer bedrooms available for over-  
33 night guests who stay for not more than 28 consecutive days for which  
34 there is compliance with all zoning or other applicable ordinances or laws  
35 which pertain to facilities which lodge and feed guests;

36 ~~(B) land devoted to agricultural use valued pursuant to K.S.A. 79-~~  
37 ~~1476, and amendments thereto, at 30%;~~

38 ~~(C)~~ (B) vacant lots at 12%;

39 ~~(D)~~ (C) real property which is owned and operated by a not-for-profit  
40 organization not subject to federal income taxation pursuant to section  
41 501 of the federal internal revenue code and included herein pursuant to  
42 K.S.A. 79-1439a, and amendments thereto, at 12%;

43 ~~(E)~~ (D) public utility real property, except railroad property which

1 shall be assessed at the average rate all other commercial and industrial  
2 property is assessed, at 33%. As used in this paragraph, “public utility”  
3 shall have the meaning ascribed thereto by K.S.A. 79-5a01, and amend-  
4 ments thereto;

5 ~~(F)~~ (E) real property used for commercial and industrial purposes  
6 and buildings and other improvements located upon land devoted to ag-  
7 ricultural use at 25%; and

8 ~~(G)~~ (F) all other urban and rural real property not otherwise specif-  
9 ically subclassed at 30%.

10 (2) *Land devoted to agricultural use valued pursuant to K.S.A. 79-*  
11 *1476, and amendments thereto, shall be assessed at 30% of its value.*

12 ~~(2)~~ (3) Personal property shall be classified into the following classes  
13 and assessed at the percentage of value prescribed therefor:

14 (A) Mobile homes used for residential purposes at 11.5%;

15 (B) mineral leasehold interests, except oil leasehold interests the av-  
16 erage daily production from which is five barrels or less, and natural gas  
17 leasehold interests, the average daily production from which is 100 mcf  
18 or less, which shall be assessed at 25%, at 30%;

19 (C) public utility tangible personal property including inventories  
20 thereof, except railroad personal property including inventories thereof,  
21 which shall be assessed at the average rate all other commercial and in-  
22 dustrial property is assessed, at 33%. As used in this paragraph, “public  
23 utility” shall have the meaning ascribed thereto by K.S.A. 79-5a01, and  
24 amendments thereto;

25 (D) all categories of motor vehicles listed and taxed pursuant to  
26 K.S.A. 79-306d, and amendments thereto, and over-the-road motor ve-  
27 hicles defined pursuant to K.S.A. 79-6a01, and amendments thereto, at  
28 30%;

29 (E) commercial and industrial machinery and equipment, including  
30 rolling equipment defined pursuant to K.S.A. 79-6a01, and amendments  
31 thereto, which, if its economic life is seven years or more, shall be valued  
32 at its retail cost when new less seven-year straight-line depreciation, or  
33 which, if its economic life is less than seven years, shall be valued at its  
34 retail cost when new less straight-line depreciation over its economic life,  
35 except that, the value so obtained for such property as long as it is being  
36 used shall not be less than 20% of the retail cost when new of such  
37 property at 25%; and

38 (F) all other tangible personal property not otherwise specifically  
39 classified at 30%.

40 Sec. 9. K.S.A. 79-1439a is hereby amended to read as follows: 79-  
41 1439a. (a) In accordance with and for the purposes of section 1 of article  
42 11 of the Kansas constitution, real property, to the extent herein specified,  
43 which is owned and operated by a not-for-profit organization not subject

1 to federal income taxation pursuant to paragraphs (2), (3), (4), (7), (8) or  
2 (10) of subsection (c) of section 501 of the federal internal revenue code,  
3 as in effect on January 1, 1994, is hereby included in subclass (4) of class  
4 1 for property tax classification purposes, and shall be assessed at the rate  
5 of 12% of its ~~fair-market~~ *adjusted baseline* value. With respect to real  
6 property owned and operated by a not-for-profit organization not subject  
7 to federal income taxation pursuant to paragraph (2) of subsection (c) of  
8 section 501 of such code, this section shall only apply to real property  
9 leased to a not-for-profit organization not subject to federal income tax-  
10 ation pursuant to paragraph (8) of subsection (c) of section 501 of such  
11 code. With respect to real property owned and operated by a not-for-  
12 profit organization not subject to federal income taxation pursuant to  
13 paragraph (7) of subsection (c) of section 501 of such code, this section  
14 shall only apply to land which is actually and regularly used for recrea-  
15 tional purposes, other than land accommodating buildings or other im-  
16 provements associated with such recreational land. Nothing in this sub-  
17 section shall be deemed to affect the exemption of property by law or the  
18 Kansas constitution.

19 (b) The provisions of this section shall apply to all taxable years com-  
20 mencing after December 31, ~~1993~~ 2008.

21 Sec. 10. K.S.A. 2008 Supp. 79-1448 is hereby amended to read as  
22 follows: 79-1448. Any taxpayer may complain or appeal to the ~~county~~  
23 ~~appraiser hearing officer or panel appointed pursuant to K.S.A. 79-1611,~~  
24 ~~and amendments thereto,~~ from the classification or appraisal of the tax-  
25 payer's property by giving notice to the ~~county appraiser hearing officer~~  
26 ~~or panel~~ within 30 days subsequent to the date of mailing of the valuation  
27 notice required by K.S.A. 79-1460, and amendments thereto, for real  
28 property, and on or before May 15 for personal property. ~~The county~~  
29 ~~appraiser or the appraiser's designee shall arrange to hold an informal~~  
30 ~~meeting with the aggrieved taxpayer with reference to the property in~~  
31 ~~question. At such meeting it shall be the duty of the county appraiser or~~  
32 ~~the county appraiser's designee to initiate production of evidence to sub-~~  
33 ~~stantiate the valuation of such property, including the affording to the~~  
34 ~~taxpayer of the opportunity to review the data sheet of comparable sales~~  
35 ~~utilized in the determination of such valuation. The county appraiser~~  
36 ~~hearing officer or panel may extend the time in which the taxpayer may~~  
37 ~~informally appeal from the classification or appraisal of the taxpayer's~~  
38 ~~property for just and adequate reasons. Except as provided in K.S.A. 79-~~  
39 ~~1404, and amendments thereto, no informal meeting regarding real prop-~~  
40 ~~erty shall be scheduled to take place after May 15, nor shall a final de-~~  
41 ~~termination be given by the appraiser after May 20. Any final~~  
42 ~~determination shall be accompanied by a written explanation of the rea-~~  
43 ~~soning upon which such determination is based when such determination~~

1 is not in favor of the taxpayer. ~~Any taxpayer who is aggrieved by the final~~  
2 ~~determination of the county appraiser may appeal to the hearing officer~~  
3 ~~or panel appointed pursuant to K.S.A. 79-1611, and amendments thereto,~~  
4 ~~and such hearing officer, or panel, for just cause shown and recorded.~~  
5 *Upon a showing by the property owner, by clear and convincing evidence,*  
6 *that the property's fair market value is lower than the property's baseline*  
7 *or adjusted value, the hearing officer or panel is authorized to change the*  
8 *classification or valuation of specific tracts or individual items of real or*  
9 *personal property in the same manner provided for in K.S.A. 79-1606,*  
10 *and amendments thereto. In lieu of appealing to a hearing officer or panel*  
11 *appointed pursuant to K.S.A. 79-1611, and amendments thereto, any tax-*  
12 *payer aggrieved by the final determination of the county appraiser, except*  
13 *with regard to land devoted to agricultural use, wherein the value of the*  
14 *property, is less than \$2,000,000, as reflected on the valuation notice, or*  
15 *the property constitutes single family residential property, may appeal to*  
16 *the small claims and expedited hearings division of the state court of tax*  
17 *appeals within the time period prescribed by K.S.A. 79-1606, and amend-*  
18 *ments thereto. Any taxpayer who is aggrieved by the final determination*  
19 *of a hearing officer or panel may appeal to the state court of tax appeals*  
20 *as provided in K.S.A. 79-1609, and amendments thereto. An informal*  
21 ~~meeting with the county appraiser or the appraiser's designee shall be a~~  
22 ~~condition precedent to an appeal to the county or district hearing panel.~~

23 Sec. 11. K.S.A. 2008 Supp. 79-1606 is hereby amended to read as  
24 follows: 79-1606. (a) ~~The county or district appraiser,~~ hearing officer or  
25 panel and arbitrator shall adopt, use and maintain the following records,  
26 the form and method of use of which shall be prescribed by the director  
27 of property valuation: (1) Appeal form, (2) hearing docket, and (3) record  
28 of cases, including the disposition thereof.

29 (b) The county clerk shall furnish appeal forms to any taxpayer who  
30 desires to appeal ~~the final determination of the county or district appraiser~~  
31 ~~as provided in K.S.A. 79-1448~~ *to the hearing officer or panel as provided*  
32 *in section 10, and amendments thereto. Any such appeal shall be in writ-*  
33 *ing and filed with the county clerk within 18 days of the date that the*  
34 ~~final determination of the appraiser was mailed to the taxpayer~~ *within the*  
35 *time limits prescribed by section 10, and amendments thereto.*

36 (c) The hearing officer or panel shall hear and determine any appeal  
37 made by any taxpayer or such taxpayer's agent or attorney. All such hear-  
38 ings shall be held in a suitable place in the county or district. Sufficient  
39 evening and Saturday hearings shall be provided as shall be necessary to  
40 hear all parties making requests for hearings at such times.

41 (d) Every appeal so filed shall be set for hearing by the hearing officer  
42 or panel, which hearing shall be held on or before July 1, and the hearing  
43 officer or panel shall have no authority to be in session thereafter, except

1 as provided in K.S.A. 79-1404, and amendments thereto. The county clerk  
2 shall notify each appellant and the county or district appraiser of the date  
3 for hearing of the taxpayer's appeal at least 10 days in advance of such  
4 hearing. It shall be the duty of the county or district appraiser to initiate  
5 the production of evidence to demonstrate, by a preponderance of the  
6 evidence, the validity and correctness of the classification or appraisal of  
7 residential property or real property used for commercial and industrial  
8 purposes, except that no such duty shall accrue with regard to leased  
9 commercial and industrial property unless the property owner has fur-  
10 nished to the county or district appraiser a complete income and expense  
11 statement for the property for the three years next proceeding [preced-  
12 ing] the year of appeal. No presumption shall exist in favor of the county  
13 or district appraiser with respect to the validity or correctness of any such  
14 classification or valuation. Every such appeal shall be determined by order  
15 of the hearing officer or panel which shall be accompanied by a written  
16 explanation of the reasoning upon which such order is based. Such order  
17 shall be recorded in the minutes of such hearing officer or panel on or  
18 before July 5. Such recorded orders and minutes shall be open to public  
19 inspection. Notice as to disposition of the appeal shall be mailed by the  
20 county clerk to the taxpayer and the county or district appraiser within  
21 five days after the determination.

22 Sec. 12. K.S.A. 79-411, 79-501, 79-5a04 and 79-1439a and K.S.A.  
23 2008 Supp. 79-412, 79-1439, 79-1448 and 79-1606 are hereby repealed.

24 Sec. 13. This act shall take effect and be in force from and after its  
25 publication in the statute book.