

HOUSE BILL No. 2302

By Committee on Taxation

2-6

9 AN ACT concerning property taxation; relating to exemptions; housing
10 for elderly persons; amending K.S.A. 2008 Supp. 79-201b and repeal-
11 ing the existing section.
12

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

14 Section 1. K.S.A. 2008 Supp. 79-201b is hereby amended to read as
15 follows: 79-201b. The following described property, to the extent herein
16 specified, shall be and is hereby exempt from all property or ad valorem
17 taxes levied under the laws of the state of Kansas:

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

42 *Second.* All real property, and tangible personal property, actually and
43 regularly used exclusively for adult care home purposes by an adult care

1 home as the same is defined by K.S.A. 39-923, and amendments thereto,
2 which is operated by a corporation organized not for profit under the laws
3 of the state of Kansas or by a corporation organized not for profit under
4 the laws of another state and duly admitted to engage in business in this
5 state as a foreign, not-for-profit corporation, charges to residents for serv-
6 ices of which produce an amount which in the aggregate is less than the
7 actual cost of operation of the home or the services of which are provided
8 to residents at the lowest feasible cost, taking into consideration such
9 items as reasonable depreciation, interest on indebtedness, acquisition
10 costs, interest and other expenses of financing acquisition costs, lease
11 expenses and costs of services provided by a parent corporation at its costs
12 and contributions to which are deductible under the Kansas income tax
13 act; and all intangible property including moneys, notes and other evi-
14 dences of debt, and the income therefrom, belonging exclusively to such
15 corporation and used exclusively for adult care home purposes. For pur-
16 poses of this paragraph and for all taxable years commencing after De-
17 cember 31, 1976, an adult care home which uses its property in a manner
18 which is consistent with the federal internal revenue service ruling 72-
19 124 issued pursuant to section 501(c)(3) of the federal internal revenue
20 code, shall be deemed to be operating at the lowest feasible cost. The
21 fact that real property or real or tangible personal property may be leased
22 from a not-for-profit corporation, which is exempt from federal income
23 taxation pursuant to section 501(c)(3) of the internal revenue code of
24 1986, and amendments thereto, and which is the parent corporation to
25 the not-for-profit operator of an adult care home, shall not be grounds to
26 deny exemption or deny that such property is actually and regularly used
27 exclusively for adult care home purposes by an adult care home, nor shall
28 the terms of any such lease be grounds for any such denial. For all taxable
29 years commencing after December 31, 1995, such property shall be
30 deemed to be used exclusively for adult care home purposes when used
31 as a not-for-profit day care center for children which is licensed pursuant
32 to K.S.A. 65-501 et seq., and amendments thereto.

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

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

6 *Fourth.* All real property and tangible personal property, actually and
7 regularly used exclusively for: (a) Housing for elderly and handicapped
8 persons having a limited or lower income, or used exclusively for coop-
9 erative housing for persons having a limited or low income, assistance for
10 the financing of which was received under 12 U.S.C.A. 1701 et seq., or
11 under 42 U.S.C.A. 1437 et seq., which is operated by a corporation or-
12 ganized not for profit under the laws of the state of Kansas or by a cor-
13 poration organized not for profit under the laws of another state and duly
14 admitted to engage in business in this state as a foreign, not-for-profit
15 corporation; and (b) for all taxable years commencing after December
16 31, 2006, temporary housing of 24 months or less for limited or low
17 income, single-parent families in need of financial assistance who are
18 enrolled in a program to receive life training skills, which is operated by
19 a charitable or religious organization; and all intangible property including
20 moneys, notes and other evidences of debt, and the income therefrom,
21 belonging exclusively to such a corporation and used exclusively for the
22 purposes of such housing. For the purposes of this subsection, coopera-
23 tive housing means those not-for-profit cooperative housing projects op-
24 erating or established pursuant to sections 236 or 221(d)(3), or both, of
25 the national housing act and which have been approved as a cooperative
26 housing project pursuant to applicable federal housing administration and
27 U.S. Department of Housing and Urban Development statutes, and rules
28 and regulations, during such time as the use of such properties are: (1)
29 Restricted pursuant to such act, or rules and regulations thereof; or (2)
30 subject to affordability financing standards established pursuant to the
31 national housing act during such time that such not-for-profit corporation
32 has adopted articles of incorporation or by-laws, or both, requiring such
33 corporation to continue to operate in compliance with the United States
34 department of housing and urban development affordability income
35 guidelines established pursuant to sections 236 or 221(d)(3) of the na-
36 tional housing act or rules and regulations thereof.

37 *Fifth.* All real property and tangible personal property, actually and
38 regularly used exclusively for housing for elderly persons, which is oper-
39 ated by a corporation organized not for profit under the laws of the state
40 of Kansas or by a corporation organized not for profit under the laws of
41 another state and duly admitted to engage in business in this state as a
42 foreign, not-for-profit corporation, in which charges to residents produce
43 an amount which in the aggregate is less than the actual cost of operation

1 of the housing facility or the services of which are provided to residents
2 at the lowest feasible cost, taking into consideration such items as rea-
3 sonable depreciation and interest on indebtedness and contributions to
4 which are deductible under the Kansas income tax act; and all intangible
5 property including moneys, notes and other evidences of debt, and the
6 income therefrom, belonging exclusively to such corporation and used
7 exclusively for the purpose of such housing. For purposes of this para-
8 graph and for all taxable years commencing after December 31, 1976, an
9 adult care home which uses its property in a manner which is consistent
10 with the federal internal revenue service ruling 72-124 issued pursuant
11 to section 501(c)(3) of the federal internal revenue code, shall be deemed
12 to be operating at the lowest feasible cost. For all taxable years com-
13 mencing after December 31, 1995, such property shall be deemed to be
14 used exclusively for housing for elderly persons purposes when used as a
15 not-for-profit day care center for children which is licensed pursuant to
16 K.S.A. 65-501 et seq., and amendments thereto. *For purposes of this*
17 *paragraph, real property owned by a “qualified §42 low income housing*
18 *project” shall be deemed to be exclusively used for housing for elderly*
19 *persons. For purposes of this paragraph, a “qualified §42 low income*
20 *housing project” means: (a) In respect of which an allocation of low in-*
21 *come housing credits pursuant to section 42 of the federal internal revenue*
22 *code was granted; (b) whereby the physical premises of such project are*
23 *used for the provision of housing for elderly persons; (c) for which the*
24 *managing member or general partner of the project is the sole general*
25 *partner or sole managing member and is at all times a corporation that*
26 *is organized not for profit, is solely responsible for the day-to-day oper-*
27 *ations of the project and otherwise satisfies the requirements of this par-*
28 *agraph; and (d) for which the sole managing member or general partner,*
29 *as the case may be, has an option to purchase such real property no later*
30 *than at the end of the “compliance period,” as defined in section 42(i)(1)*
31 *of the federal internal revenue code for an amount reasonably expected*
32 *to be at, or less than, fair market value at the time of the granting of such*
33 *option.*

34 *Sixth.* All real property and tangible personal property actually and
35 regularly used exclusively for the purpose of group housing of mentally
36 ill or retarded and other handicapped persons which is operated by a
37 corporation organized not for profit under the laws of the state of Kansas
38 or by a corporation organized not for profit under the laws of another
39 state and duly admitted to engage in business in this state as a foreign,
40 not-for-profit corporation, in which charges to residents produce an
41 amount which in the aggregate is less than the actual cost of operation of
42 the housing facility or the services of which are provided to residents at
43 the lowest feasible cost, taking into consideration such items as reasonable

1 depreciation and interest on indebtedness and contributions to which are
2 deductible under the Kansas income tax act, and which is licensed as a
3 facility for the housing of mentally ill or retarded and other handicapped
4 persons under the provisions of K.S.A. 75-3307b, and amendments
5 thereto, or as a rooming or boarding house used as a facility for the
6 housing of mentally retarded and other handicapped persons which is
7 licensed as a lodging establishment under the provisions of K.S.A. 36-501
8 et seq., and amendments thereto.

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

11 Sec. 2. K.S.A. 2008 Supp. 79-201b is hereby repealed.

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