

HOUSE BILL No. 2706

By Committee on Government Efficiency

2-9

1 AN ACT concerning appraisal of real property prior to state purchase or
2 disposition; *relating to open records*; amending K.S.A. 75-3043a and
3 *K.S.A. 2011 Supp. 45-221* and repealing the existing section sections.
4

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

6 *Section 1. K.S.A. 2011 Supp. 45-221 is hereby amended to read as*
7 *follows: 45-221. (a) Except to the extent disclosure is otherwise required*
8 *by law, a public agency shall not be required to disclose:*

9 (1) *Records the disclosure of which is specifically prohibited or*
10 *restricted by federal law, state statute or rule of the Kansas supreme*
11 *court or rule of the senate committee on confirmation oversight relating*
12 *to information submitted to the committee pursuant to K.S.A. 2011 Supp.*
13 *75-4315d, and amendments thereto, or the disclosure of which is*
14 *prohibited or restricted pursuant to specific authorization of federal law,*
15 *state statute or rule of the Kansas supreme court or rule of the senate*
16 *committee on confirmation oversight relating to information submitted*
17 *to the committee pursuant to K.S.A. 2011 Supp. 75-4315d, and*
18 *amendments thereto, to restrict or prohibit disclosure.*

19 (2) *Records which are privileged under the rules of evidence, unless*
20 *the holder of the privilege consents to the disclosure.*

21 (3) *Medical, psychiatric, psychological or alcoholism or drug*
22 *dependency treatment records which pertain to identifiable patients.*

23 (4) *Personnel records, performance ratings or individually*
24 *identifiable records pertaining to employees or applicants for*
25 *employment, except that this exemption shall not apply to the names,*
26 *positions, salaries or actual compensation employment contracts or*
27 *employment-related contracts or agreements and lengths of service of*
28 *officers and employees of public agencies once they are employed as*
29 *such.*

30 (5) *Information which would reveal the identity of any undercover*
31 *agent or any informant reporting a specific violation of law.*

32 (6) *Letters of reference or recommendation pertaining to the*
33 *character or qualifications of an identifiable individual, except*
34 *documents relating to the appointment of persons to fill a vacancy in an*
35 *elected office.*

1 (7) *Library, archive and museum materials contributed by private*
2 *persons, to the extent of any limitations imposed as conditions of the*
3 *contribution.*

4 (8) *Information which would reveal the identity of an individual*
5 *who lawfully makes a donation to a public agency, if anonymity of the*
6 *donor is a condition of the donation, except if the donation is intended*
7 *for or restricted to providing remuneration or personal tangible benefit*
8 *to a named public officer or employee.*

9 (9) *Testing and examination materials, before the test or*
10 *examination is given or if it is to be given again, or records of individual*
11 *test or examination scores, other than records which show only passage*
12 *or failure and not specific scores.*

13 (10) *Criminal investigation records, except as provided herein. The*
14 *district court, in an action brought pursuant to K.S.A. 45-222, and*
15 *amendments thereto, may order disclosure of such records, subject to*
16 *such conditions as the court may impose, if the court finds that*
17 *disclosure:*

18 (A) *Is in the public interest;*

19 (B) *would not interfere with any prospective law enforcement*
20 *action, criminal investigation or prosecution;*

21 (C) *would not reveal the identity of any confidential source or*
22 *undercover agent;*

23 (D) *would not reveal confidential investigative techniques or*
24 *procedures not known to the general public;*

25 (E) *would not endanger the life or physical safety of any person;*
26 *and*

27 (F) *would not reveal the name, address, phone number or any other*
28 *information which specifically and individually identifies the victim of*
29 *any sexual offense in article 35 of chapter 21 of the Kansas Statutes*
30 *Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas*
31 *Statutes Annotated, and amendments thereto.*

32 *If a public record is discretionarily closed by a public agency*
33 *pursuant to this subsection, the record custodian, upon request, shall*
34 *provide a written citation to the specific provisions of paragraphs (A)*
35 *through (F) that necessitate closure of that public record.*

36 (11) *Records of agencies involved in administrative adjudication or*
37 *civil litigation, compiled in the process of detecting or investigating*
38 *violations of civil law or administrative rules and regulations, if*
39 *disclosure would interfere with a prospective administrative adjudication*
40 *or civil litigation or reveal the identity of a confidential source or*
41 *undercover agent.*

42 (12) *Records of emergency or security information or procedures of*
43 *a public agency, or plans, drawings, specifications or related*

1 *information for any building or facility which is used for purposes*
2 *requiring security measures in or around the building or facility or*
3 *which is used for the generation or transmission of power, water, fuels*
4 *or communications, if disclosure would jeopardize security of the public*
5 *agency, building or facility.*

6 *(13) The contents of appraisals or engineering or feasibility*
7 *estimates or evaluations made by or for a public agency relative to the*
8 *acquisition or disposal of property, prior to the award of formal*
9 *contracts therefor.*

10 *(14) Correspondence between a public agency and a private*
11 *individual, other than correspondence which is intended to give notice of*
12 *an action, policy or determination relating to any regulatory, supervisory*
13 *or enforcement responsibility of the public agency or which is widely*
14 *distributed to the public by a public agency and is not specifically in*
15 *response to communications from such a private individual.*

16 *(15) Records pertaining to employer-employee negotiations, if*
17 *disclosure would reveal information discussed in a lawful executive*
18 *session under K.S.A. 75-4319, and amendments thereto.*

19 *(16) Software programs for electronic data processing and*
20 *documentation thereof, but each public agency shall maintain a register,*
21 *open to the public, that describes:*

22 *(A) The information which the agency maintains on computer*
23 *facilities; and*

24 *(B) the form in which the information can be made available using*
25 *existing computer programs.*

26 *(17) Applications, financial statements and other information*
27 *submitted in connection with applications for student financial*
28 *assistance where financial need is a consideration for the award.*

29 *(18) Plans, designs, drawings or specifications which are prepared*
30 *by a person other than an employee of a public agency or records which*
31 *are the property of a private person.*

32 *(19) Well samples, logs or surveys which the state corporation*
33 *commission requires to be filed by persons who have drilled or caused to*
34 *be drilled, or are drilling or causing to be drilled, holes for the purpose*
35 *of discovery or production of oil or gas, to the extent that disclosure is*
36 *limited by rules and regulations of the state corporation commission.*

37 *(20) Notes, preliminary drafts, research data in the process of*
38 *analysis, unfunded grant proposals, memoranda, recommendations or*
39 *other records in which opinions are expressed or policies or actions are*
40 *proposed, except that this exemption shall not apply when such records*
41 *are publicly cited or identified in an open meeting or in an agenda of an*
42 *open meeting.*

43 *(21) Records of a public agency having legislative powers, which*

1 *records pertain to proposed legislation or amendments to proposed*
2 *legislation, except that this exemption shall not apply when such records*
3 *are:*

4 *(A) Publicly cited or identified in an open meeting or in an agenda*
5 *of an open meeting; or*

6 *(B) distributed to a majority of a quorum of any body which has*
7 *authority to take action or make recommendations to the public agency*
8 *with regard to the matters to which such records pertain.*

9 *(22) Records of a public agency having legislative powers, which*
10 *records pertain to research prepared for one or more members of such*
11 *agency, except that this exemption shall not apply when such records*
12 *are:*

13 *(A) Publicly cited or identified in an open meeting or in an agenda*
14 *of an open meeting; or*

15 *(B) distributed to a majority of a quorum of any body which has*
16 *authority to take action or make recommendations to the public agency*
17 *with regard to the matters to which such records pertain.*

18 *(23) Library patron and circulation records which pertain to*
19 *identifiable individuals.*

20 *(24) Records which are compiled for census or research purposes*
21 *and which pertain to identifiable individuals.*

22 *(25) Records which represent and constitute the work product of an*
23 *attorney.*

24 *(26) Records of a utility or other public service pertaining to*
25 *individually identifiable residential customers of the utility or service,*
26 *except that information concerning billings for specific individual*
27 *customers named by the requester shall be subject to disclosure as*
28 *provided by this act.*

29 *(27) Specifications for competitive bidding, until the specifications*
30 *are officially approved by the public agency.*

31 *(28) Sealed bids and related documents, until a bid is accepted or*
32 *all bids rejected.*

33 *(29) Correctional records pertaining to an identifiable inmate or*
34 *release, except that:*

35 *(A) The name; photograph and other identifying information;*
36 *sentence data; parole eligibility date; custody or supervision level;*
37 *disciplinary record; supervision violations; conditions of supervision,*
38 *excluding requirements pertaining to mental health or substance abuse*
39 *counseling; location of facility where incarcerated or location of parole*
40 *office maintaining supervision and address of a releasee whose crime*
41 *was committed after the effective date of this act shall be subject to*
42 *disclosure to any person other than another inmate or releasee, except*
43 *that the disclosure of the location of an inmate transferred to another*

1 *state pursuant to the interstate corrections compact shall be at the*
2 *discretion of the secretary of corrections;*

3 *(B) the ombudsman of corrections, the attorney general, law*
4 *enforcement agencies, counsel for the inmate to whom the record*
5 *pertains and any county or district attorney shall have access to*
6 *correctional records to the extent otherwise permitted by law;*

7 *(C) the information provided to the law enforcement agency*
8 *pursuant to the sex offender registration act, K.S.A. 22-4901 et seq., and*
9 *amendments thereto, shall be subject to disclosure to any person, except*
10 *that the name, address, telephone number or any other information*
11 *which specifically and individually identifies the victim of any offender*
12 *required to register as provided by the Kansas offender registration act,*
13 *K.S.A. 22-4901 et seq., and amendments thereto, shall not be disclosed;*
14 *and*

15 *(D) records of the department of corrections regarding the*
16 *financial assets of an offender in the custody of the secretary of*
17 *corrections shall be subject to disclosure to the victim, or such victim's*
18 *family, of the crime for which the inmate is in custody as set forth in an*
19 *order of restitution by the sentencing court.*

20 *(30) Public records containing information of a personal nature*
21 *where the public disclosure thereof would constitute a clearly*
22 *unwarranted invasion of personal privacy.*

23 *(31) Public records pertaining to prospective location of a business*
24 *or industry where no previous public disclosure has been made of the*
25 *business' or industry's interest in locating in, relocating within or*
26 *expanding within the state. This exception shall not include those*
27 *records pertaining to application of agencies for permits or licenses*
28 *necessary to do business or to expand business operations within this*
29 *state, except as otherwise provided by law.*

30 *(32) Engineering and architectural estimates made by or for any*
31 *public agency relative to public improvements.*

32 *(33) Financial information submitted by contractors in*
33 *qualification statements to any public agency.*

34 *(34) Records involved in the obtaining and processing of*
35 *intellectual property rights that are expected to be, wholly or partially*
36 *vested in or owned by a state educational institution, as defined in K.S.A.*
37 *76-711, and amendments thereto, or an assignee of the institution*
38 *organized and existing for the benefit of the institution.*

39 *(35) Any report or record which is made pursuant to K.S.A. 65-*
40 *4922, 65-4923 or 65-4924, and amendments thereto, and which is*
41 *privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments*
42 *thereto.*

43 *(36) Information which would reveal the precise location of an*

1 *archeological site.*

2 *(37) Any financial data or traffic information from a railroad*
3 *company, to a public agency, concerning the sale, lease or rehabilitation*
4 *of the railroad's property in Kansas.*

5 *(38) Risk-based capital reports, risk-based capital plans and*
6 *corrective orders including the working papers and the results of any*
7 *analysis filed with the commissioner of insurance in accordance with*
8 *K.S.A. 40-2c20 and 40-2d20, and amendments thereto.*

9 *(39) Memoranda and related materials required to be used to*
10 *support the annual actuarial opinions submitted pursuant to subsection*
11 *(b) of K.S.A. 40-409, and amendments thereto.*

12 *(40) Disclosure reports filed with the commissioner of insurance*
13 *under subsection (a) of K.S.A. 40-2,156, and amendments thereto.*

14 *(41) All financial analysis ratios and examination synopses*
15 *concerning insurance companies that are submitted to the commissioner*
16 *by the national association of insurance commissioners' insurance*
17 *regulatory information system.*

18 *(42) Any records the disclosure of which is restricted or prohibited*
19 *by a tribal-state gaming compact.*

20 *(43) Market research, market plans, business plans and the terms*
21 *and conditions of managed care or other third-party contracts,*
22 *developed or entered into by the university of Kansas medical center in*
23 *the operation and management of the university hospital which the*
24 *chancellor of the university of Kansas or the chancellor's designee*
25 *determines would give an unfair advantage to competitors of the*
26 *university of Kansas medical center.*

27 *(44) The amount of franchise tax paid to the secretary of revenue*
28 *or the secretary of state by domestic corporations, foreign corporations,*
29 *domestic limited liability companies, foreign limited liability companies,*
30 *domestic limited partnership, foreign limited partnership, domestic*
31 *limited liability partnerships and foreign limited liability partnerships.*

32 *(45) Records, other than criminal investigation records, the*
33 *disclosure of which would pose a substantial likelihood of revealing*
34 *security measures that protect: (A) Systems, facilities or equipment used*
35 *in the production, transmission or distribution of energy, water or*
36 *communications services; (B) transportation and sewer or wastewater*
37 *treatment systems, facilities or equipment; or (C) private property or*
38 *persons, if the records are submitted to the agency. For purposes of this*
39 *paragraph, security means measures that protect against criminal acts*
40 *intended to intimidate or coerce the civilian population, influence*
41 *government policy by intimidation or coercion or to affect the operation*
42 *of government by disruption of public services, mass destruction,*
43 *assassination or kidnapping. Security measures include, but are not*

1 *limited to, intelligence information, tactical plans, resource deployment*
2 *and vulnerability assessments.*

3 *(46) Any information or material received by the register of deeds*
4 *of a county from military discharge papers (DD Form 214). Such papers*
5 *shall be disclosed: To the military dischargee; to such dischargee's*
6 *immediate family members and lineal descendants; to such dischargee's*
7 *heirs, agents or assigns; to the licensed funeral director who has custody*
8 *of the body of the deceased dischargee; when required by a department*
9 *or agency of the federal or state government or a political subdivision*
10 *thereof; when the form is required to perfect the claim of military service*
11 *or honorable discharge or a claim of a dependent of the dischargee; and*
12 *upon the written approval of the commissioner of veterans affairs, to a*
13 *person conducting research.*

14 *(47) Information that would reveal the location of a shelter or a*
15 *safehouse or similar place where persons are provided protection from*
16 *abuse or the name, address, location or other contact information of*
17 *alleged victims of stalking, domestic violence or sexual assault.*

18 *(48) Policy information provided by an insurance carrier in*
19 *accordance with subsection (h)(1) of K.S.A. 44-532, and amendments*
20 *thereto. This exemption shall not be construed to preclude access to an*
21 *individual employer's record for the purpose of verification of insurance*
22 *coverage or to the department of labor for their business purposes.*

23 *(49) An individual's e-mail address, cell phone number and other*
24 *contact information which has been given to the public agency for the*
25 *purpose of public agency notifications or communications which are*
26 *widely distributed to the public.*

27 *(50) Information provided by providers to the local collection point*
28 *administrator or to the 911 coordinating council pursuant to the Kansas*
29 *911 act, and amendments thereto, upon request of the party submitting*
30 *such records.*

31 *(b) Except to the extent disclosure is otherwise required by law or*
32 *as appropriate during the course of an administrative proceeding or on*
33 *appeal from agency action, a public agency or officer shall not disclose*
34 *financial information of a taxpayer which may be required or requested*
35 *by a county appraiser or the director of property valuation to assist in*
36 *the determination of the value of the taxpayer's property for ad valorem*
37 *taxation purposes; or any financial information of a personal nature*
38 *required or requested by a public agency or officer, including a name,*
39 *job description or title revealing the salary or other compensation of*
40 *officers, employees or applicants for employment with a firm,*
41 *corporation or agency, except a public agency. Nothing contained herein*
42 *shall be construed to prohibit the publication of statistics, so classified as*
43 *to prevent identification of particular reports or returns and the items*

1 *thereof.*

2 (c) *As used in this section, the term "cited or identified" shall not*
3 *include a request to an employee of a public agency that a document be*
4 *prepared.*

5 (d) *If a public record contains material which is not subject to*
6 *disclosure pursuant to this act, the public agency shall separate or delete*
7 *such material and make available to the requester that material in the*
8 *public record which is subject to disclosure pursuant to this act. If a*
9 *public record is not subject to disclosure because it pertains to an*
10 *identifiable individual, the public agency shall delete the identifying*
11 *portions of the record and make available to the requester any*
12 *remaining portions which are subject to disclosure pursuant to this act,*
13 *unless the request is for a record pertaining to a specific individual or to*
14 *such a limited group of individuals that the individuals' identities are*
15 *reasonably ascertainable, the public agency shall not be required to*
16 *disclose those portions of the record which pertain to such individual or*
17 *individuals.*

18 (e) *The provisions of this section shall not be construed to exempt*
19 *from public disclosure statistical information not descriptive of any*
20 *identifiable person.*

21 (f) *Notwithstanding the provisions of subsection (a), any public*
22 *record which has been in existence more than 70 years shall be open for*
23 *inspection by any person unless disclosure of the record is specifically*
24 *prohibited or restricted by federal law, state statute or rule of the Kansas*
25 *supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and*
26 *amendments thereto.*

27 (g) *Any confidential records or information relating to security*
28 *measures provided or received under the provisions of subsection (a)(45)*
29 *shall not be subject to subpoena, discovery or other demand in any*
30 *administrative, criminal or civil action.*

31 ~~Section 1.~~ **Sec. 2.** K.S.A. 75-3043a is hereby amended to read as
32 follows: 75-3043a. Except as otherwise specifically provided by statute or
33 rule and regulation, prior to the state of Kansas or any agency thereof
34 purchasing or disposing of any real property, by deed, mortgage, gift or
35 other means of conveyance, transfer or exchange, such property shall be
36 appraised by ~~three~~ **(3) one** disinterested ~~appraisers~~ **appraiser**, to be
37 appointed by the judicial administrator, to determine the market-value
38 appraisal of such property; but nothing in this section shall be construed as
39 establishing or limiting the consideration for the acquisition or disposition
40 of any such property. **{If the value of the real property is over \$200,000**
41 **as determined by the county assessment value of such property, the**
42 **judicial administrator may appoint three disinterested appraisers to**
43 **determine the market-value appraisal of such real property.}** Any

1 appraiser selected pursuant to this section shall receive reasonable fees or
2 compensation from legislative appropriations made available therefor.

3 Sec. ~~2~~ **3**. K.S.A. 75-3043a ~~is~~ **and K.S.A. 2011 Supp. 45-221 are**
4 hereby repealed.

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

7