

HOUSE BILL No. 2134

By Committee on Taxation

1-30

1 AN ACT concerning property taxation; relating to classification or
2 valuation of property; appeals; protesting payment; amending K.S.A.
3 2012 Supp. 74-2433f, 79-1448, 79-1460 and 79-2005 and repealing the
4 existing sections.
5

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

7 Section 1. K.S.A. 2012 Supp. 74-2433f is hereby amended to read as
8 follows: 74-2433f. (a) There shall be a division of the state court of tax
9 appeals known as the small claims and expedited hearings division.
10 Hearing officers appointed by the chief hearing officer shall have authority
11 to hear and decide cases heard in the small claims and expedited hearings
12 division.

13 (b) The small claims and expedited hearings division shall have
14 jurisdiction over hearing and deciding applications for the refund of
15 protested taxes under the provisions of K.S.A. 79-2005, and amendments
16 thereto, and hearing and deciding appeals from decisions rendered
17 pursuant to the provisions of K.S.A. 79-1448, and amendments thereto,
18 and of article 16 of chapter 79 of the Kansas Statutes Annotated, and ~~acts~~
19 ~~amendatory thereof or supplemental amendments~~ thereto, with regard to
20 single-family residential property. The filing of an appeal with the small
21 claims and expedited hearings division shall be a prerequisite for filing an
22 appeal with the state court of tax appeals for appeals involving single-
23 family residential property.

24 (c) At the election of the taxpayer, the small claims and expedited
25 hearings division shall have jurisdiction over: (1) Any appeal of a decision,
26 finding, order or ruling of the director of taxation, except an appeal,
27 finding, order or ruling relating to an assessment issued pursuant to K.S.A.
28 79-5201 et seq., and amendments thereto, in which the amount of tax in
29 controversy does not exceed \$15,000; (2) hearing and deciding
30 applications for the refund of protested taxes under the provisions of
31 K.S.A. 79-2005, and amendments thereto, where the value of the property,
32 other than property devoted to agricultural use, is less than \$2,000,000 as
33 reflected on the valuation notice; (3) hearing and deciding appeals from
34 decisions rendered pursuant to the provisions of K.S.A. 79-1448, and
35 amendments thereto, and of article 16 of chapter 79 of the Kansas Statutes
36 Annotated, and ~~acts amendatory thereof or supplemental amendments~~

1 thereto, other than those relating to land devoted to agricultural use,
2 wherein the value of the property is less than \$2,000,000 as reflected on
3 the valuation notice; *or the valuation of the property has been increased*
4 *by the county appraiser in the next three taxable years following the*
5 *taxable year that the valuation of the property had been reduced due to a*
6 *final determination made pursuant to the valuation appeals process.*

7 (d) In accordance with the provisions of K.S.A. 74-2438, and
8 amendments thereto, any party may elect to appeal any application or
9 decision referenced in subsection (b) to the state court of tax appeals.
10 Except as provided in subsection (b) regarding single-family residential
11 property, the filing of an appeal with the small claims and expedited
12 hearings division shall not be a prerequisite for filing an appeal with the
13 state court of tax appeals under this section. Final decisions of the small
14 claims and expedited hearings division may be appealed to the state court
15 of tax appeals. An appeal of a decision of the small claims and expedited
16 hearings division to the state court of tax appeals shall be de novo.

17 (e) A taxpayer shall commence a proceeding in the small claims and
18 expedited hearings division by filing a notice of appeal in the form
19 prescribed by the rules of the state court of tax appeals which shall state
20 the nature of the taxpayer's claim. Notice of appeal shall be provided to the
21 appropriate unit of government named in the notice of appeal by the
22 taxpayer. In any valuation appeal or tax protest commenced pursuant to
23 articles 14 and 20 of chapter 79 of the Kansas Statutes Annotated, and
24 amendments thereto, the hearing shall be conducted in the county where
25 the property is located or a county adjacent thereto. In any appeal from a
26 final determination by the secretary of revenue, the hearing shall be
27 conducted in the county in which the taxpayer resides or a county adjacent
28 thereto.

29 (f) The hearing in the small claims and expedited hearings division
30 shall be informal. The hearing officer may hear any testimony and receive
31 any evidence the hearing officer deems necessary or desirable for a just
32 determination of the case. A hearing officer shall have the authority to
33 administer oaths in all matters before the hearing officer. All testimony
34 shall be given under oath. A party may appear personally or may be
35 represented by an attorney, a certified public accountant, a certified general
36 appraiser, a tax representative or agent, a member of the taxpayer's
37 immediate family or an authorized employee of the taxpayer. A county or
38 unified government may be represented by the county appraiser, designee
39 of the county appraiser, county attorney or counselor or other
40 representatives so designated. No transcript of the proceedings shall be
41 kept.

42 (g) The hearing in the small claims and expedited hearings division
43 shall be conducted within 60 days after the appeal is filed in the small

1 claims and expedited hearings division unless such time period is waived
2 by the taxpayer. A decision shall be rendered by the hearing officer within
3 30 days after the hearing is concluded and, in cases arising from appeals
4 described by subsections (b) and (c)(2) and (3), shall be accompanied by a
5 written explanation of the reasoning upon which such decision is based.
6 Documents provided by a taxpayer or county or district appraiser shall be
7 returned to the taxpayer or the county or district appraiser by the hearing
8 officer and shall not become a part of the court's permanent records.
9 Documents provided to the hearing officer shall be confidential and may
10 not be disclosed, except as otherwise specifically provided.

11 (h) With regard to any matter properly submitted to the division
12 relating to the determination of valuation of property for taxation purposes,
13 it shall be the duty of the county appraiser to initiate the production of
14 evidence to demonstrate, by a preponderance of the evidence, the validity
15 and correctness of such determination. No presumption shall exist in favor
16 of the county appraiser with respect to the validity and correctness of such
17 determination.

18 Sec. 2. K.S.A. 2012 Supp. 79-1448 is hereby amended to read as
19 follows: 79-1448. Any taxpayer may complain or appeal to the county
20 appraiser from the classification or appraisal of the taxpayer's property by
21 giving notice to the county appraiser within 30 days subsequent to the date
22 of mailing of the valuation notice required by K.S.A. 79-1460, and
23 amendments thereto, for real property, and on or before May 15 for
24 personal property. The county appraiser or the appraiser's designee shall
25 arrange to hold an informal meeting with the aggrieved taxpayer with
26 reference to the property in question. At such meeting it shall be the duty
27 of the county appraiser or the county appraiser's designee to initiate
28 production of evidence to substantiate the valuation of such property,
29 including the affording to the taxpayer of the opportunity to review the
30 data sheet of comparable sales utilized in the determination of such
31 valuation. *At such meeting, the taxpayer may present the county appraiser
32 with an appraisal of valuation of the taxpayer's property prepared by an
33 individual licensed as an appraiser pursuant to K.S.A. 58-4101 et seq.,
34 and amendments thereto. If the county appraiser declines to adopt the
35 valuation of the taxpayer's property as established in the appraisal
36 presented by the taxpayer and the taxpayer elects to appeal the decision
37 pursuant to the valuation appeals process, it shall be the duty of the
38 county appraiser to demonstrate, by a preponderance of the evidence, the
39 invalidity of the appraisal submitted by the taxpayer. If the county
40 appraiser declines to adopt the valuation of the taxpayer's property as
41 established in the appraisal presented by the taxpayer and the valuation of
42 the taxpayer's property is reduced pursuant to a final determination made
43 pursuant to the valuation appeals process, the county shall be required to*

1 *pay reasonable attorney fees and costs to the prevailing taxpayer.* The
2 county appraiser may extend the time in which the taxpayer may
3 informally appeal from the classification or appraisal of the taxpayer's
4 property for just and adequate reasons. Except as provided in K.S.A. 79-
5 1404, and amendments thereto, no informal meeting regarding real
6 property shall be scheduled to take place after May 15, nor shall a final
7 determination be given by the appraiser after May 20. Any final
8 determination shall be accompanied by a written explanation of the
9 reasoning upon which such determination is based when such
10 determination is not in favor of the taxpayer. Any taxpayer who is
11 aggrieved by the final determination of the county appraiser may appeal to
12 the hearing officer or panel appointed pursuant to K.S.A. 79-1611, and
13 amendments thereto, and such hearing officer, or panel, for just cause
14 shown and recorded, is authorized to change the classification or valuation
15 of specific tracts or individual items of real or personal property in the
16 same manner provided for in K.S.A. 79-1606, and amendments thereto. In
17 lieu of appealing to a hearing officer or panel appointed pursuant to K.S.A.
18 79-1611, and amendments thereto, any taxpayer aggrieved by the final
19 determination of the county appraiser, except with regard to land devoted
20 to agricultural use, wherein: (1) The value of the property, is less than
21 \$2,000,000, as reflected on the valuation notice;; (2) *the valuation of the*
22 *property has been increased by the county appraiser in a taxable year*
23 *immediately following the taxable year that the valuation of the property*
24 *had been reduced due to a final determination made pursuant to the*
25 *valuation appeals process;* or (3) the property constitutes single family
26 residential property, may appeal to the small claims and expedited hearings
27 division of the state court of tax appeals within the time period prescribed
28 by K.S.A. 79-1606, and amendments thereto. Any taxpayer who is
29 aggrieved by the final determination of a hearing officer or panel may
30 appeal to the state court of tax appeals as provided in K.S.A. 79-1609, and
31 amendments thereto. An informal meeting with the county appraiser or the
32 appraiser's designee shall be a condition precedent to an appeal to the
33 county or district hearing panel.

34 Sec. 3. K.S.A. 2012 Supp. 79-1460 is hereby amended to read as
35 follows: 79-1460. (a) The county appraiser shall notify each taxpayer in
36 the county annually on or before March 1 for real property and May 1 for
37 personal property, by mail directed to the taxpayer's last known address, of
38 the classification and appraised valuation of the taxpayer's property, except
39 that, the valuation for all real property shall not be increased unless: (1)
40 The record of the latest physical inspection was reviewed by the county or
41 district appraiser, and documentation exists to support such increase in
42 valuation in compliance with the directives and specifications of the
43 director of property valuation, and such record and documentation is

1 available to the affected taxpayer; and (2) for the *next three* taxable-year
2 ~~next years~~ following the taxable year that the valuation for real property
3 has been reduced due to a final determination made pursuant to the
4 valuation appeals process, documented substantial and compelling reasons
5 exist therefor and are provided by the county appraiser. When the
6 valuation for real property has been reduced due to a final determination
7 made pursuant to the valuation appeals process for the prior year, and the
8 county appraiser has already certified the appraisal rolls for the current
9 year to the county clerk pursuant to K.S.A. 79-1466, and amendments
10 thereto, the county appraiser may amend the appraisal rolls and certify the
11 changes to the county clerk to implement the provisions of this subsection
12 and reduce the valuation of the real property to the prior year's final
13 determination, except that such changes shall not be made after October 31
14 of the current year. For the purposes of this section and in the case of real
15 property, the term "taxpayer" shall be deemed to be the person in
16 ownership of the property as indicated on the records of the office of
17 register of deeds or county clerk and, in the case where the real property or
18 improvement thereon is the subject of a lease agreement, such term shall
19 also be deemed to include the lessee of such property if the lease
20 agreement has been recorded or filed in the office of the register of deeds.
21 Such notice shall specify separately both the previous and current
22 appraised and assessed values for each property class identified on the
23 parcel. Such notice shall also contain the uniform parcel identification
24 number prescribed by the director of property valuation. Such notice shall
25 also contain a statement of the taxpayer's right to appeal, the procedure to
26 be followed in making such appeal and the availability without charge of
27 the guide devised pursuant to subsection (b). Such notice may, and if the
28 board of county commissioners so require, shall provide the parcel
29 identification number, address and the sale date and amount of any or all
30 sales utilized in the determination of appraised value of residential real
31 property. In any year in which no change in appraised valuation of any real
32 property from its appraised valuation in the next preceding year is
33 determined, an alternative form of notification which has been approved
34 by the director of property valuation may be utilized by a county. Failure
35 to timely mail or receive such notice shall in no way invalidate the
36 classification or appraised valuation as changed. The secretary of revenue
37 shall adopt rules and regulations necessary to implement the provisions of
38 this section.

39 (b) For all taxable years commencing after December 31, 1999, there
40 shall be provided to each taxpayer, upon request, a guide to the property
41 tax appeals process. The director of the division of property valuation shall
42 devise and publish such guide, and shall provide sufficient copies thereof
43 to all county appraisers. Such guide shall include but not be limited to: (1)

1 A restatement of the law which pertains to the process and practice of
2 property appraisal methodology, including the contents of K.S.A. 79-503a
3 and 79-1460, and amendments thereto; (2) the procedures of the appeals
4 process, including the order and burden of proof of each party and time
5 frames required by law; and (3) such other information deemed necessary
6 to educate and enable a taxpayer to properly and competently pursue an
7 appraisal appeal.

8 (c) *For the purposes of this section:*

9 (1) *The term "substantial and compelling reasons" means a change*
10 *in the character of the use of the property or a substantial addition or*
11 *improvement to the property;*

12 (2) *the term "substantial addition or improvement to the property"*
13 *means any expansion or enlargement of the physical occupancy of the*
14 *property through the construction of any new structures or improvements*
15 *on the property or any renovations that expand or enlarge the square*
16 *footage of any existing structures or improvements on the property. The*
17 *term "substantial addition or improvement to the property" shall not*
18 *include:*

19 (A) *Any maintenance, renovation or repair of any existing structures,*
20 *equipment or improvements on the property that does not expand or*
21 *enlarge the square footage of any existing structures or improvements on*
22 *the property; or*

23 (B) *reconstruction or replacement of any existing equipment or*
24 *components of any existing structures or improvement on the property.*

25 Sec. 4. K.S.A. 2012 Supp. 79-2005 is hereby amended to read as
26 follows: 79-2005. (a) Any taxpayer, before protesting the payment of such
27 taxpayer's taxes, shall be required, either at the time of paying such taxes,
28 or, if the whole or part of the taxes are paid prior to December 20, no later
29 than December 20, or, with respect to taxes paid in whole or in part in an
30 amount equal to at least $\frac{1}{2}$ of such taxes on or before December 20 by an
31 escrow or tax service agent, no later than January 31 of the next year, to
32 file a written statement with the county treasurer, on forms approved by
33 the state court of tax appeals and provided by the county treasurer, clearly
34 stating the grounds on which the whole or any part of such taxes are
35 protested and citing any law, statute or facts on which such taxpayer relies
36 in protesting the whole or any part of such taxes. When the grounds of
37 such protest is an assessment of taxes made pursuant to K.S.A. 79-332a
38 and 79-1427a, and amendments thereto, the county treasurer may not
39 distribute the taxes paid under protest until such time as the appeal is final.
40 When the grounds of such protest is that the valuation or assessment of the
41 property upon which the taxes are levied is illegal or void, the county
42 treasurer shall forward a copy of the written statement of protest to the
43 county appraiser who shall within 15 days of the receipt thereof, schedule

1 an informal meeting with the taxpayer or such taxpayer's agent or attorney
2 with reference to the property in question. *At such meeting it shall be the*
3 *duty of the county appraiser or the county appraiser's designee to initiate*
4 *production of evidence to substantiate the valuation of such property,*
5 *including affording the taxpayer the opportunity to review the data sheet*
6 *of comparable sales utilized in the determination of such valuation at least*
7 *48 hours before any hearing on such valuation.* The county appraiser shall
8 review the appraisal of the taxpayer's property with the taxpayer or such
9 taxpayer's agent or attorney and may change the valuation of the taxpayer's
10 property, if in the county appraiser's opinion a change in the valuation of
11 the taxpayer's property is required to assure that the taxpayer's property is
12 valued according to law, and shall, within 15 business days thereof, notify
13 the taxpayer in the event the valuation of the taxpayer's property is
14 changed, in writing of the results of the meeting. In the event the valuation
15 of the taxpayer's property is changed and such change requires a refund of
16 taxes and interest thereon, the county treasurer shall process the refund in
17 the manner provided by subsection (l).

18 (b) No protest appealing the valuation or assessment of property shall
19 be filed pertaining to any year's valuation or assessment when an appeal of
20 such valuation or assessment was commenced pursuant to K.S.A. 79-1448,
21 and amendments thereto, nor shall the second half payment of taxes be
22 protested when the first half payment of taxes has been protested.
23 Notwithstanding the foregoing, this provision shall not prevent any
24 subsequent owner from protesting taxes levied for the year in which such
25 property was acquired, nor shall it prevent any taxpayer from protesting
26 taxes when the valuation or assessment of such taxpayer's property has
27 been changed pursuant to an order of the director of property valuation.

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

32 (d) If the grounds of such protest shall be that the valuation or
33 assessment of the property upon which the taxes so protested are levied is
34 illegal or void, such statement shall further state the exact amount of
35 valuation or assessment which the taxpayer admits to be valid and the
36 exact portion of such taxes which is being protested.

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

40 (f) Upon the filing of a written statement of protest, the grounds of
41 which shall be that any tax levied, or any part thereof, is illegal, the county
42 treasurer shall mail a copy of such written statement of protest to the state
43 court of tax appeals and the governing body of the taxing district making

1 the levy being protested.

2 (g) Within 30 days after notification of the results of the informal
3 meeting with the county appraiser pursuant to subsection (a), the
4 protesting taxpayer may, if aggrieved by the results of the informal
5 meeting with the county appraiser, appeal such results to the state court of
6 tax appeals.

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

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

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

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

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

19 (2) No interest shall be allowed pursuant to paragraph (1) in any case
20 where the tax paid under protest was inclusive of delinquent taxes.

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

34 (n) Whenever a taxpayer appeals to the court of tax appeals pursuant
35 to the provisions of K.S.A. 79-1609, and amendments thereto, or pays
36 taxes under protest related to one property whereby the assessed valuation
37 of such property exceeds 5% of the total county assessed valuation of all
38 property located within such county and the taxpayer receives a refund of
39 such taxes paid under protest or a refund made pursuant to the provisions
40 of K.S.A. 79-1609, and amendments thereto, the county treasurer may
41 request the pooled money investment board to make a loan to such county
42 as provided in this section. The pooled money investment board is
43 authorized and directed to loan to such county sufficient funds to enable

1 the county to refund such taxes to the taxpayer. The pooled money
2 investment board is authorized and directed to use any moneys in the
3 operating accounts, investment accounts or other investments of the state
4 of Kansas to provide the funds for such loan. Each loan shall bear interest
5 at a rate equal to the net earnings rate of the pooled money investment
6 portfolio at the time of the making of such loan. The total aggregate
7 amount of loans under this program shall not exceed \$50,000,000 of
8 unencumbered funds pursuant to article 42 of chapter 75 of the Kansas
9 Statutes Annotated, and amendments thereto. Such loan shall not be
10 deemed to be an indebtedness or debt of the state of Kansas within the
11 meaning of section 6 of article 11 of the constitution of the state of Kansas.
12 Upon certification to the pooled money investment board by the county
13 treasurer of the amount of each loan authorized pursuant to this subsection,
14 the pooled money investment board shall transfer each such amount
15 certified by the county treasurer from the state bank account or accounts
16 prescribed in this subsection to the county treasurer who shall deposit such
17 amount in the county treasury. Any such loan authorized pursuant to this
18 subsection shall be repaid within four years. The county shall make not
19 more than four equal annual tax levies at the time fixed for the certification
20 of tax levies to the county clerk following the making of such loan
21 sufficient to pay such loan within the time period required under such loan.
22 All such tax levies shall be in addition to all other levies authorized by law.

23 (o) The county treasurer shall disburse to the proper funds all portions
24 of taxes paid under protest and shall maintain a record of all portions of
25 such taxes which are so protested and shall notify the governing body of
26 the taxing district levying such taxes thereof and the director of accounts
27 and reports if any tax protested was levied by the state.

28 (p) This statute shall not apply to the valuation and assessment of
29 property assessed by the director of property valuation and it shall not be
30 necessary for any owner of state assessed property, who has an appeal
31 pending before the state court of tax appeals, to protest the payment of
32 taxes under this statute solely for the purpose of protecting the right to a
33 refund of taxes paid under protest should that owner be successful in that
34 appeal.

35 Sec. 5. K.S.A. 2012 Supp. 74-2433f, 79-1448, 79-1460 and 79-2005
36 are hereby repealed.

37 Sec. 6. This act shall take effect and be in force from and after its
38 publication in the statute book.