AN ACT concerning property taxation; relating to classification of property; appeals; requiring the county to pay reasonable attorney fees and costs of prevailing taxpayer; amending K.S.A. 79-2005 and repealing the existing section.

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

Section 1. K.S.A. 79-2005 is hereby amended to read as follows: 79-2005. (a) Any taxpayer, before protesting the payment of such taxpayer's taxes, shall be required, either at the time of paying such taxes, or, if the whole or part of the taxes are paid prior to December 20, no later than December 20, or, with respect to taxes paid in whole or in part in an amount equal to at least 1/2 of such taxes on or before December 20 by an escrow or tax service agent, no later than January 31 of the next year, to file a written statement with the county treasurer, on forms approved by the state board of tax appeals and provided by the county treasurer, clearly stating the grounds on which the whole or any part of such taxes are protested and citing any law, statute or facts on which such taxpayer relies in protesting the whole or any part of such taxes. When the grounds of such protest is an assessment of taxes made pursuant to K.S.A. 79-332a and 79-1427a, and amendments thereto, the county treasurer may not distribute the taxes paid under protest until such time as the appeal is final. When the grounds of such protest is that the valuation or assessment of the property upon which the taxes are levied is illegal or void, the county treasurer shall forward a copy of the written statement of protest to the county appraiser who shall within 15 days of the receipt thereof, schedule an informal meeting with the taxpayer or such taxpayer's agent or attorney with reference to the property in question. At the informal meeting, it shall be the duty of the county appraiser or the county appraiser's designee to initiate production of evidence to substantiate the valuation of such property, including a summary of the reasons that the valuation of the property has been increased over the preceding year, any assumptions used by the county appraiser to determine the value of the property and a description of the individual property characteristics, property specific valuation records and conclusions. The taxpayer shall be provided with the opportunity to review the data sheets applicable to the valuation approach utilized for the subject property. The county appraiser shall take into
account any evidence provided by the taxpayer which relates to the
amount of deferred maintenance and depreciation of the property. The
county appraiser shall review the appraisal of the taxpayer's property with
the taxpayer or such taxpayer's agent or attorney and may change the
valuation of the taxpayer's property, if in the county appraiser's opinion a
change in the valuation of the taxpayer's property is required to assure that
the taxpayer's property is valued according to law, and shall, within 15
business days thereof, notify the taxpayer in the event the valuation of the
taxpayer's property is changed, in writing of the results of the meeting. In
the event the valuation of the taxpayer's property is changed and such
change requires a refund of taxes and interest thereon, the county treasurer
shall process the refund in the manner provided by subsection (l).

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

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

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

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

(f) Upon the filing of a written statement of protest, the grounds of
which shall be that any tax levied, or any part thereof, is illegal, the county
treasurer shall mail a copy of such written statement of protest to the state
board of tax appeals and the governing body of the taxing district making
the levy being protested.

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

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

(i) In the event of a hearing, the same shall be originally set not later than 90 days after the filing of the copy of the written statement of protest and a copy, when applicable, of the written notification of the informal meeting with the county appraiser with the board. With regard to any matter properly submitted to the board relating to the determination of valuation of residential property or real property used for commercial and industrial purposes for taxation purposes, it shall be the duty of the county appraiser to initiate the production of evidence to demonstrate, by a preponderance of the evidence, the validity and correctness of such determination except that no such duty shall accrue to the county or district appraiser with regard to leased commercial and industrial property unless the property owner has furnished to the county or district appraiser a complete income and expense statement for the property for the three years next preceding the year of appeal. No presumption shall exist in favor of the county appraiser with respect to the validity and correctness of such determination. In all instances where the board sets a request for hearing and requires the representation of the county by its attorney or counselor at such hearing, the county shall be represented by its county attorney or counselor. The board shall take into account any evidence provided by the taxpayer which relates to the amount of deferred maintenance and depreciation for the property. In any appeal from the reclassification of property that was classified as land devoted to agricultural use for the preceding year, the taxpayer's classification of the property as land devoted to agricultural use shall be presumed to be valid and correct if the taxpayer provides an executed lease agreement or other documentation demonstrating a commitment to use the property for agricultural use, if no other actual use is evident.

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

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

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

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

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

(n) Whenever a taxpayer appeals to the board of tax appeals pursuant to the provisions of K.S.A. 79-1609, and amendments thereto, or pays taxes under protest related to one property whereby the assessed valuation of such property exceeds 5% of the total county assessed valuation of all property located within such county and the taxpayer receives a refund of such taxes paid under protest or a refund made pursuant to the provisions of K.S.A. 79-1609, and amendments thereto, the county treasurer or the
governing body of any taxing subdivision within a county may request the
pooled money investment board to make a loan to such county or taxing
subdivision as provided in this section. The pooled money investment
board is authorized and directed to loan to such county or taxing
subdivision sufficient funds to enable the county or taxing subdivision to
refund such taxes to the taxpayer. The pooled money investment board is
authorized and directed to use any moneys in the operating accounts,
investment accounts or other investments of the state of Kansas to provide
the funds for such loan. Each loan shall bear interest at a rate equal to the
net earnings rate of the pooled money investment portfolio at the time of
the making of such loan. The total aggregate amount of loans under this
program shall not exceed $50,000,000 of unencumbered funds pursuant to
article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments
thereto. Such loan shall not be deemed to be an indebtedness or debt of the
state of Kansas within the meaning of section 6 of article 11 of the
constitution of the state of Kansas. Upon certification to the pooled money
investment board by the county treasurer or governing body of the amount
of each loan authorized pursuant to this subsection, the pooled money
investment board shall transfer each such amount certified by the county
treasurer or governing body from the state bank account or accounts
prescribed in this subsection to the county treasurer who shall deposit such
amount in the county treasury. Any such loan authorized pursuant to this
subsection shall be repaid within four years. The county or taxing
subdivision shall make not more than four equal annual tax levies at the
time fixed for the certification of tax levies to the county clerk following
the making of such loan sufficient to pay such loan within the time period
required under such loan. All such tax levies shall be in addition to all
other levies authorized by law.

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

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

(q) The county shall be required to pay the reasonable attorney fees
and costs of the prevailing taxpayer when: (1) The county appraiser
changes the classification of the taxpayer's property from the classification
for the preceding year without a zoning change occurring; (2) the
taxpayer challenges the new classification; and (3) the classification of the
taxpayer's property is returned to the same classification as for the
preceding year as the result of a final determination made pursuant to the
appeals process pursuant to this section or pursuant to the provisions of
K.S.A. 79-1448, and amendments thereto, or article 16 of chapter 79 of the
Kansas Statutes Annotated, and amendments thereto.

Sec. 2. K.S.A. 79-2005 is hereby repealed.

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