

As Amended by House Committee

Session of 2021

SENATE BILL No. 119

By Committee on Assessment and Taxation

2-1

1 AN ACT concerning property taxation; relating to state board of tax
2 appeals orders and notices; service by electronic means; time to request
3 full and complete opinion; prohibiting valuation increases in certain
4 appeals; **burden of proof of judicial review in district court;**
5 **extending the time a board member may continue to serve after**
6 **such member's term expires; authorizing appointment by the**
7 **governor of a member pro tempore under certain conditions;**
8 relating to the county appraiser eligibility list; requiring notification
9 when person no longer holds office of county appraiser; complying
10 with certain appraisal standards; amending K.S.A. 74-2426, **74-2433,**
11 **74-2433f, 79-505, 79-1448, 79-1609 and 79-2005 and K.S.A. 2020**
12 **Supp. 19-432 and repealing the existing sections.**
13

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

15 Section 1. K.S.A. 2020 Supp. 19-432 is hereby amended to read as
16 follows: 19-432. (a) The director of property valuation shall maintain a
17 current list of persons eligible to be appointed to the office of appraiser.
18 Periodic issuance of this list shall constitute the official list of eligible
19 Kansas appraisers who are candidates for appointment. Inclusion on this
20 list shall be made dependent upon successful completion of a written
21 examination as adopted and administered by the director.

22 (b) The director of property valuation shall be required to conduct
23 training courses annually for the purpose of training appraisal candidates.
24 These courses shall be designed to prepare students to successfully
25 complete the written examinations required for eligible Kansas appraiser
26 status.

27 (c) Once certified, an eligible Kansas appraiser may retain that status
28 only through successful completion of additional appraisal courses at
29 intervals as determined by the director of property valuation. The director
30 shall be required to conduct training courses annually for the purpose of
31 providing the additional curriculum required for retention of Kansas
32 appraiser status. The director may accept recognized appraisal courses as
33 an alternative to courses conducted by the director's office to fulfill this
34 requirement for the maintenance of eligible Kansas appraiser status.

35 (1) *After notice and an opportunity to be heard in accordance with*
36 *the provisions of the Kansas administrative procedure act, the director of*

1 property valuation may remove any person from the list of persons eligible
2 to be appointed to the office of appraiser for any of the following acts or
3 omissions:

4 (A) Failing to meet the minimum qualifications established by this
5 section;

6 (B) a plea of guilty or nolo contendere to, or conviction of: (i) Any
7 crime involving moral turpitude; or (ii) any felony charge; or

8 (C) entry of a final civil judgment against the person on grounds of
9 fraud, misrepresentation or deceit in the making of any appraisal of real or
10 personal property.

11 (2) Any person removed from the list of persons eligible to be
12 appointed to the office of county appraiser under the provisions of this
13 section shall immediately forfeit the office of county or district appraiser.

14 (3) An appeal may be taken to the state board of tax appeals from any
15 final action of the director of property valuation under the provisions of
16 this section pursuant to K.S.A. 74-2438, and amendments thereto.

17 (4) The director of property valuation may relist a person as an
18 eligible county appraiser upon a showing of mitigating circumstances,
19 restitution or expungement.

20 *(d) The board of county commissioners or governing body of any*
21 *unified government of each county shall immediately notify the director of*
22 *property valuation when a person no longer holds the office of county*
23 *appraiser for such county. The notification shall be made on a form*
24 *provided by the director. If the person no longer holds the office of county*
25 *appraiser before the expiration of a four-year term or the person does not*
26 *complete a four-year term, then the notification shall include the reason*
27 *therefor, unless otherwise precluded by law. The director shall make a*
28 *notation on any eligibility list record of the person when the person no*
29 *longer holds the office of county appraiser before the expiration of a four-*
30 *year term or the person does not complete a four-year term.*

31 Sec. 2. K.S.A. 74-2426 is hereby amended to read as follows: 74-
32 2426. (a) Orders of the state board of tax appeals on any appeal, in any
33 proceeding under the tax protest, tax grievance or tax exemption statutes
34 or in any other original proceeding before the board shall be rendered and
35 served in accordance with the provisions of the Kansas administrative
36 procedure act. Notwithstanding the provisions of K.S.A. 77-526(g), and
37 amendments thereto, a written summary decision shall be rendered by the
38 board and served within 14 days after the matter was fully submitted to the
39 board unless this period is waived or extended with the written consent of
40 all parties or for good cause shown. Any aggrieved party, within ~~14~~ 21
41 days *after service* of ~~receiving~~ the board's decision, may request a full and
42 complete opinion be issued by the board in which the board explains its
43 decision. Except as provided in subsection (c)(4), this full opinion shall be

1 served by the board within 90 days of being requested. If the board has not
2 rendered a summary decision or a full and complete opinion within the
3 time periods described in this subsection, and such period has not been
4 waived by the parties nor can the board show good cause for the delay,
5 then the board shall refund any filing fees paid by the taxpayer. *Service of*
6 *orders, decisions and opinions shall be made in accordance with K.S.A.*
7 *77-531, and amendments thereto.*

8 (b) Final orders of the board shall be subject to review pursuant to
9 subsection (c) except that the aggrieved party may first file a petition for
10 reconsideration of a full and complete opinion with the board in
11 accordance with the provisions of K.S.A. 77-529, and amendments
12 thereto.

13 (c) Any action of the board pursuant to this section is subject to
14 review in accordance with the Kansas judicial review act, except that:

15 (1) The parties to the action for judicial review shall be the same
16 parties as appeared before the board in the administrative proceedings
17 before the board. The board shall not be a party to any action for judicial
18 review of an action of the board.

19 (2) There is no right to review of any order issued by the board in a
20 no-fund warrant proceeding pursuant to K.S.A. 12-110a, 12-1662 et seq.,
21 19-2752a, 79-2938, 79-2939 and 79-2951, and amendments thereto, and
22 statutes of a similar character.

23 (3) In addition to the cost of the preparation of the transcript, the
24 appellant shall pay to the state board of tax appeals the other costs of
25 certifying the record to the reviewing court. Such payment shall be made
26 prior to the transmission of the agency record to the reviewing court.

27 (4) Appeal of an order of the board shall be to the court of appeals as
28 provided in subsection (c)(4)(A), unless a taxpayer who is a party to the
29 order requests review in district court pursuant to subsection (c)(4)(B).

30 (A) Any aggrieved party may file a petition for review of the board's
31 order in the court of appeals. For purposes of such an appeal, the board's
32 order shall become final only after the issuance of a full and complete
33 opinion pursuant to subsection (a).

34 (B) At the election of a taxpayer, any summary decision or full and
35 complete opinion of the board of tax appeals issued after June 30, 2014,
36 may be appealed by filing a petition for review in the district court. Any
37 appeal to the district court shall be a trial de novo. Notwithstanding K.S.A.
38 77-619, and amendments thereto, the trial de novo shall include an
39 evidentiary hearing at which issues of law and fact shall be determined
40 anew. **With regard to any matter properly submitted to the district**
41 **court relating to the determination of valuation of residential property**
42 **or real property used for commercial and industrial purposes for**
43 **taxation purposes or the determination of classification of property for**

1 **assessment purposes, the county appraiser shall have the duty to**
2 **initiate the production of evidence to demonstrate, by a**
3 **preponderance of the evidence, the validity and correctness of such**
4 **determination.** District court review of orders issued by the board relating
5 to the valuation or assessment of property for ad valorem tax purposes or
6 relating to the tax protest shall be conducted by the court of the county in
7 which the property is located, or, if located in more than one county, the
8 court of any county in which any portion of the property is located.

9 (C) If a taxpayer requests review of a summary decision or full and
10 complete opinion in district court pursuant to subsection (c)(4)(B), the
11 taxpayer shall provide notice to the board as well as the parties. Upon
12 receipt of the notice, the board's jurisdiction shall terminate,
13 notwithstanding any prior request for a full and complete opinion under
14 subsection (a), and the board shall not issue such opinion.

15 (d) If review of an order of the state board of tax appeals to the court
16 of appeals relating to excise, income or estate taxes, is sought by a person
17 other than the director of taxation, such person shall give bond for costs at
18 the time the petition is filed. The bond shall be in the amount of 125% of
19 the amount of taxes assessed or a lesser amount approved by the court of
20 appeals and shall be conditioned on the petitioner's prosecution of the
21 review without delay and payment of all costs assessed against the
22 petitioner.

23 *(e) Notwithstanding any provisions of K.S.A. 77-531, and*
24 *amendments thereto, to the contrary, the state board of tax appeals shall*
25 *serve an order or notice upon the party and the party's attorney of record,*
26 *if any, by transmitting a copy of the order or notice to the person by*
27 *electronic means, if such person requested and consented to service by*
28 *electronic means. For purposes of this subsection, service by electronic*
29 *means is complete upon transmission.*

30 **Sec. 3. K.S.A. 74-2433 is hereby amended to read as follows: 74-**
31 **2433. (a) There is hereby created a state board of tax appeals, referred**
32 **to in this act as the board. The board shall be composed of three**
33 **members who shall be appointed by the governor, subject to**
34 **confirmation by the senate as provided in K.S.A. 75-4315b, and**
35 **amendments thereto. For members appointed after June 30, 2014, one**
36 **of such members shall have been regularly admitted to practice law in**
37 **the state of Kansas and for a period of at least five years, have**
38 **engaged in the active practice of law as a lawyer, judge of a court of**
39 **record or any other court in this state; one of such members shall have**
40 **engaged in active practice as a certified public accountant for a period**
41 **of at least five years and one such member shall be a licensed certified**
42 **general real property appraiser. In addition, the governor shall also**
43 **appoint a chief hearing officer, subject to confirmation by the senate**

1 as provided in K.S.A. 75-4315b, and amendments thereto, who, in
2 addition to other duties prescribed by this act, shall serve as a member
3 pro tempore of the board. No successor shall be appointed for any
4 judge of the court of tax appeals appointed before July 1, 2014. Such
5 persons shall continue to serve as members on the board of tax
6 appeals until their terms expire. Except as provided by K.S.A. 46-
7 2601, and amendments thereto, no person appointed to the board,
8 including the chief hearing officer, shall exercise any power, duty or
9 function as a member of the board until confirmed by the senate. Not
10 more than two members of the board shall be of the same political
11 party. Members of the board, including the chief hearing officer, shall
12 be residents of the state. Subject to the provisions of K.S.A. 75-4315c,
13 and amendments thereto, no more than one member shall be
14 appointed from any one of the congressional districts of Kansas
15 unless, after having exercised due diligence, the governor is unable to
16 find a qualified replacement within 90 days after any vacancy on the
17 board occurs. The members of the board, including the chief hearing
18 officer, shall be selected with special reference to training and
19 experience for duties imposed by this act and shall be individuals with
20 legal, tax, accounting or appraisal training and experience. State
21 board of tax appeals members shall be subject to the supreme court
22 rules of judicial conduct applicable to all judges of the district court.
23 The board shall be bound by the doctrine of stare decisis limited to
24 published decisions of an appellate court. Members of the board,
25 including the chief hearing officer, shall hold office for terms of four
26 years. A member may continue to serve for a period of ~~90~~ 180 days
27 after the expiration of the member's term, or until a successor has
28 been appointed and confirmed, whichever is shorter. Except as
29 otherwise provided, such terms of office shall expire on January 15 of
30 the last year of such term. If a vacancy occurs on the board, or in the
31 position for chief hearing officer, the governor shall appoint a
32 successor to fill the vacancy for the unexpired term. Nothing in this
33 section shall be construed to prohibit the governor from reappointing
34 any member of the board, including the chief hearing officer, for
35 additional four-year terms. The governor shall select one of its
36 members to serve as chairperson. The votes of two members shall be
37 required for any final order to be issued by the board. Meetings may
38 be called by the chairperson and shall be called on request of a
39 majority of the members of the board and when otherwise prescribed
40 by statute.

41 (b) Any member appointed to the state board of tax appeals and
42 the chief hearing officer may be removed by the governor for cause,
43 after public hearing conducted in accordance with the provisions of

1 the Kansas administrative procedure act.

2 (c) The state board of tax appeals shall appoint, subject to
3 approval by the governor, an executive director of the board, to serve
4 at the pleasure of the board. The executive director shall: (1) Be in the
5 unclassified service under the Kansas civil service act; (2) devote full
6 time to the executive director's assigned duties; (3) receive such
7 compensation as determined by the board, subject to the limitations of
8 appropriations thereof; and (4) have familiarity with the tax appeals
9 process sufficient to fulfill the duties of the office of executive director.
10 The executive director shall perform such other duties as directed by
11 the board.

12 (d) Appeals decided by the state board of tax appeals shall be
13 made available to the public and shall be published by the board on
14 the board's website within 30 days after the decision has been
15 rendered. The board shall also publish a monthly report that includes
16 all appeals decided that month as well as all appeals which have not
17 yet been decided and are beyond the time limitations as set forth in
18 K.S.A. 74-2426, and amendments thereto. Such report shall be made
19 available to the public and transmitted by the board to the members
20 of the Kansas legislature.

21 (e) After appointment, members of the state board of tax appeals
22 that are not otherwise a state certified general real property appraiser
23 shall complete the following course requirements: (1) A tested
24 appraisal course of not less than 30 clock hours of instruction
25 consisting of the fundamentals of real property appraisal with an
26 emphasis on the cost and sales approaches to value; (2) a tested
27 appraisal course of not less than 30 clock hours of instruction
28 consisting of the fundamentals of real property appraisal with an
29 emphasis on the income approach to value; (3) a tested appraisal
30 course of not less than 30 clock hours of instruction with an emphasis
31 on mass appraisal; (4) an appraisal course with an emphasis on
32 Kansas property tax laws; (5) an appraisal course on the techniques
33 and procedures for the valuation of state assessed properties with an
34 emphasis on unit valuation; and (6) a tested appraisal course on the
35 techniques and procedures for the valuation of land devoted to
36 agricultural use pursuant to K.S.A. 79-1476, and amendments thereto.
37 Any member appointed to the board who is a certified real property
38 appraiser shall only be required to take such educational courses as
39 are required to maintain the appraisal license. The executive director
40 shall adopt rules and regulations prescribing a timetable for the
41 completion of the course requirements and prescribing continued
42 education requirements for members of the board.

43 (f) The state board of tax appeals shall have no capacity or power

1 to sue or be sued.

2 (g) It is the intent of the legislature that proceedings in front of
3 the board of tax appeals be conducted in a fair and impartial manner
4 and that all taxpayers are entitled to a neutral interpretation of the tax
5 laws of the state of Kansas. The provisions of the tax laws of this state
6 shall be applied impartially to both taxpayers and taxing districts in
7 cases before the board. Valuation appeals before the board shall be
8 decided upon a determination of the fair market value of the fee
9 simple of the property. Nothing in this section shall prohibit a
10 property owner, during a property valuation appeal before the board,
11 from raising arguments regarding classification. Cases before the
12 board shall not be decided upon arguments concerning the shifting of
13 the tax burden or upon any revenue loss or gain which may be
14 experienced by the taxing district.

15 (h) *Notwithstanding any provisions of subsection (a) to the contrary,*
16 *the governor may appoint a former member in good standing of the board*
17 *of tax appeals to serve as a member pro tempore of the board for a period*
18 *not to exceed one year when, after having exercised due diligence, more*
19 *than one vacancy on the board exists. Such member pro tempore may*
20 *exercise any power, duty or function as is necessary to serve as a member*
21 *of the board. Such member pro tempore shall serve at the pleasure of the*
22 *governor and receive compensation for each day of actual attendance or*
23 *work as a member based on a proration of the annual salary provided in*
24 *K.S.A. 74-2434, and amendments thereto. The provisions of this subsection*
25 *shall expire on June 30, 2023.*

26 Sec. ~~3~~ 4. K.S.A. 74-2433f is hereby amended to read as follows: 74-
27 2433f. (a) There shall be a division of the state board of tax appeals known
28 as the small claims and expedited hearings division. Hearing officers
29 appointed by the chief hearing officer shall have authority to hear and
30 decide cases heard in the small claims and expedited hearings division.

31 (b) The small claims and expedited hearings division shall have
32 jurisdiction over hearing and deciding applications for the refund of
33 protested taxes under the provisions of K.S.A. 79-2005, and amendments
34 thereto, and hearing and deciding appeals from decisions rendered
35 pursuant to the provisions of K.S.A. 79-1448, and amendments thereto,
36 and of article 16 of chapter 79 of the Kansas Statutes Annotated, and
37 amendments thereto, with regard to single-family residential property. The
38 filing of an appeal with the small claims and expedited hearings division
39 shall be a prerequisite for filing an appeal with the state board of tax
40 appeals for appeals involving single-family residential property.

41 (c) At the election of the taxpayer, the small claims and expedited
42 hearings division shall have jurisdiction over: (1) Any appeal of a decision,
43 finding, order or ruling of the director of taxation, except an appeal,

1 finding, order or ruling relating to an assessment issued pursuant to K.S.A.
2 79-5201 et seq., and amendments thereto, in which the amount of tax in
3 controversy does not exceed \$15,000; (2) hearing and deciding
4 applications for the refund of protested taxes under the provisions of
5 K.S.A. 79-2005, and amendments thereto, where the value of the property,
6 other than property devoted to agricultural use, is less than \$3,000,000 as
7 reflected on the valuation notice; and (3) hearing and deciding appeals
8 from decisions rendered pursuant to the provisions of K.S.A. 79-1448, and
9 amendments thereto, and of article 16 of chapter 79 of the Kansas Statutes
10 Annotated, and amendments thereto, other than those relating to land
11 devoted to agricultural use, wherein the value of the property is less than
12 \$3,000,000 as reflected on the valuation notice.

13 (d) In accordance with the provisions of K.S.A. 74-2438, and
14 amendments thereto, any party may elect to appeal any application or
15 decision referenced in subsection (b) to the state board of tax appeals.
16 Except as provided in subsection (b) regarding single-family residential
17 property, the filing of an appeal with the small claims and expedited
18 hearings division shall not be a prerequisite for filing an appeal with the
19 state board of tax appeals under this section. Final decisions of the small
20 claims and expedited hearings division may be appealed to the state board
21 of tax appeals. An appeal of a decision of the small claims and expedited
22 hearings division to the state board of tax appeals shall be de novo. The
23 county bears the burden of proof in any appeal filed by the county
24 pursuant to this section. *With regard to any matter properly submitted to*
25 *the board relating to the determination of valuation of property for*
26 *taxation purposes pursuant to this subsection, the board shall not increase*
27 *the appraised valuation of the property to an amount greater than the final*
28 *determination of appraised value by the county appraiser from which the*
29 *taxpayer appealed to the small claims and expedited hearings division.*

30 (e) A taxpayer shall commence a proceeding in the small claims and
31 expedited hearings division by filing a notice of appeal in the form
32 prescribed by the rules of the state board of tax appeals which shall state
33 the nature of the taxpayer's claim. The notice of appeal may be signed by
34 the taxpayer, any person with an executed declaration of representative
35 form from the property valuation division of the department of revenue or
36 any person authorized to represent the taxpayer in subsection (f). Notice of
37 appeal shall be provided to the appropriate unit of government named in
38 the notice of appeal by the taxpayer. In any valuation appeal or tax protest
39 commenced pursuant to articles 14 and 20 of chapter 79 of the Kansas
40 Statutes Annotated, and amendments thereto, the hearing shall be
41 conducted in the county where the property is located or a county adjacent
42 thereto. In any appeal from a final determination by the secretary of
43 revenue, the hearing shall be conducted in the county in which the

1 taxpayer resides or a county adjacent thereto.

2 (f) The hearing in the small claims and expedited hearings division
3 shall be informal. The hearing officer may hear any testimony and receive
4 any evidence the hearing officer deems necessary or desirable for a just
5 determination of the case. A hearing officer shall have the authority to
6 administer oaths in all matters before the hearing officer. All testimony
7 shall be given under oath. A party may appear personally or may be
8 represented by an attorney, a certified public accountant, a certified general
9 appraiser, a tax representative or agent, a member of the taxpayer's
10 immediate family or an authorized employee of the taxpayer. A county or
11 unified government may be represented by the county appraiser, designee
12 of the county appraiser, county attorney or counselor or other
13 representatives so designated. No transcript of the proceedings shall be
14 kept.

15 (g) The hearing in the small claims and expedited hearings division
16 shall be conducted within 60 days after the appeal is filed in the small
17 claims and expedited hearings division unless such time period is waived
18 by the taxpayer. A decision shall be rendered by the hearing officer within
19 30 days after the hearing is concluded and, in cases arising from appeals
20 described by subsections (b) and (c)(2) and (3), shall be accompanied by a
21 written explanation of the reasoning upon which such decision is based.
22 Documents provided by a taxpayer or county or district appraiser shall be
23 returned to the taxpayer or the county or district appraiser by the hearing
24 officer and shall not become a part of the board's permanent records.
25 Documents provided to the hearing officer shall be confidential and may
26 not be disclosed, except as otherwise specifically provided.

27 (h) With regard to any matter properly submitted to the division
28 relating to the determination of valuation of property for taxation purposes,
29 it shall be the duty of the county appraiser to initiate the production of
30 evidence to demonstrate, by a preponderance of the evidence, the validity
31 and correctness of such determination. No presumption shall exist in favor
32 of the county appraiser with respect to the validity and correctness of such
33 determination. With regard to leased commercial and industrial property,
34 the burden of proof shall be on the taxpayer unless the taxpayer has
35 furnished the county or district appraiser, within 30 calendar days
36 following the informal meeting required by K.S.A. 79-1448, and
37 amendments thereto, or within 30 calendar days following the informal
38 meeting required by K.S.A. 79-2005, and amendments thereto, a complete
39 income and expense statement for the property for the three years next
40 preceding the year of appeal. Such income and expense statement shall be
41 in such format that is regularly maintained by the taxpayer in the ordinary
42 course of the taxpayer's business. If the taxpayer submits a single property
43 appraisal with an effective date of January 1 of the year appealed, the

1 burden of proof shall return to the county appraiser. *With regard to any*
2 *matter properly submitted to the division relating to the determination of*
3 *valuation of property for taxation purposes, the hearing officer shall not*
4 *increase the appraised valuation of the property to an amount greater than*
5 *the final determination of appraised value by the county appraiser from*
6 *which the taxpayer appealed.*

7 Sec. ~~4~~ 5. K.S.A. 79-505 is hereby amended to read as follows: 79-
8 505. (a) The director of property valuation shall adopt ~~rules and~~
9 ~~regulations or~~ appraiser directives prescribing appropriate standards for the
10 performance of appraisals in connection with ad valorem taxation in this
11 state. Such ~~rules and regulations or~~ appraiser directives shall require, at a
12 minimum:

13 (1) That all appraisals be performed in ~~accordance with generally~~
14 ~~accepted appraisal standards as evidenced by the appraisal standards~~
15 *compliance with the uniform standards of professional appraisal practice,*
16 *commonly referred to as "USPAP," promulgated by the appraisal standards*
17 *board of the appraisal foundation; and*

18 (2) that such appraisals shall be written appraisals.

19 (b) The director of property valuation ~~or a county appraiser~~ may
20 require compliance with additional standards if a determination is made in
21 writing that such additional standards are required in order to properly
22 carry out statutory responsibilities *and such additional standards do not*
23 *conflict with the uniform standards of professional appraisal practice,*
24 *commonly referred to as "USPAP," promulgated by the appraisal*
25 *standards board of the appraisal foundation.*

26 Sec. ~~5~~ 6. K.S.A. 79-1448 is hereby amended to read as follows: 79-
27 1448. Any taxpayer may complain or appeal to the county appraiser from
28 the classification or appraisal of the taxpayer's property by giving notice to
29 the county appraiser within 30 days subsequent to the date of mailing of
30 the valuation notice required by K.S.A. 79-1460, and amendments thereto,
31 for real property, and on or before May 15 for personal property. The
32 county appraiser or the appraiser's designee shall arrange to hold an
33 informal meeting with the aggrieved taxpayer with reference to the
34 property in question. At such meeting it shall be the duty of the county
35 appraiser or the county appraiser's designee to initiate production of
36 evidence to substantiate the valuation of such property, including, a
37 summary of the reasons that the valuation of the property has been
38 increased over the previous year, any assumptions used by the county
39 appraiser to determine the value of the property and a description of the
40 individual property characteristics, property specific valuation records and
41 conclusions. The taxpayer shall be provided with the opportunity to review
42 the data sheets applicable to the valuation approach utilized for the subject
43 property. The county appraiser shall take into account any evidence

1 provided by the taxpayer which relates to the amount of deferred
2 maintenance and depreciation for the property. In any appeal from the
3 appraisal of leased commercial and industrial property, the county or
4 district appraiser's appraised value shall be presumed to be valid and
5 correct and may only be rebutted by a preponderance of the evidence,
6 unless the property owner furnishes the county or district appraiser a
7 complete income and expense statement for the property for the three
8 years next preceding the year of appeal within 30 calendar days following
9 the informal meeting. In any appeal from the reclassification of property
10 that was classified as land devoted to agricultural use for the preceding
11 year, the taxpayer's classification of the property as land devoted to
12 agricultural use shall be presumed to be valid and correct if the taxpayer
13 provides an executed lease agreement or other documentation
14 demonstrating a commitment to use the property for agricultural use, if no
15 other actual use is evident. The county appraiser may extend the time in
16 which the taxpayer may informally appeal from the classification or
17 appraisal of the taxpayer's property for just and adequate reasons. Except
18 as provided in K.S.A. 79-1404, and amendments thereto, no informal
19 meeting regarding real property shall be scheduled to take place after May
20 15, nor shall a final determination be given by the appraiser after May 20.
21 Any final determination shall be accompanied by a written explanation of
22 the reasoning upon which such determination is based when such
23 determination is not in favor of the taxpayer. *The county appraiser shall*
24 *not increase the appraised valuation of the property as a result of the*
25 *informal meeting.* Any taxpayer who is aggrieved by the final
26 determination of the county appraiser may appeal to the hearing officer or
27 panel appointed pursuant to K.S.A. 79-1611, and amendments thereto, and
28 such hearing officer, or panel, for just cause shown and recorded, is
29 authorized to change the classification or valuation of specific tracts or
30 individual items of real or personal property in the same manner provided
31 for in K.S.A. 79-1606, and amendments thereto. In lieu of appealing to a
32 hearing officer or panel appointed pursuant to K.S.A. 79-1611, and
33 amendments thereto, any taxpayer aggrieved by the final determination of
34 the county appraiser, except with regard to land devoted to agricultural
35 use, wherein the value of the property, is less than \$3,000,000, as reflected
36 on the valuation notice, or the property constitutes single family residential
37 property, may appeal to the small claims and expedited hearings division
38 of the state board of tax appeals within the time period prescribed by
39 K.S.A. 79-1606, and amendments thereto. Any taxpayer who is aggrieved
40 by the final determination of a hearing officer or panel may appeal to the
41 state board of tax appeals as provided in K.S.A. 79-1609, and amendments
42 thereto. An informal meeting with the county appraiser or the appraiser's
43 designee shall be a condition precedent to an appeal to the county or

1 district hearing panel.

2 Sec. ~~6~~ 7. K.S.A. 79-1609 is hereby amended to read as follows: 79-
3 1609. Any person aggrieved by any order of the hearing officer or panel,
4 or by the classification and appraisal of an independent appraiser, as
5 provided in K.S.A. 79-5b03, and amendments thereto, may appeal to the
6 state board of tax appeals by filing a written notice of appeal, on forms
7 approved by the state board of tax appeals and provided by the county
8 clerk for such purpose, stating the grounds thereof and a description of any
9 comparable property or properties and the appraisal thereof upon which
10 they rely as evidence of inequality of the appraisal of their property, if that
11 be a ground of the appeal, with the state board of tax appeals and by filing
12 a copy thereof with the county clerk within 30 days after the date of the
13 order from which the appeal is taken. The notice of appeal may be signed
14 by the taxpayer, any person with an executed declaration of representative
15 form from the property valuation division of the department of revenue or
16 any person authorized to represent the taxpayer in K.S.A. 74-2433f(f), and
17 amendments thereto. A county or district appraiser may appeal to the state
18 board of tax appeals from any order of the hearing officer or panel. With
19 regard to any matter properly submitted to the board relating to the
20 determination of valuation of residential property or real property used for
21 commercial and industrial purposes for taxation purposes, it shall be the
22 duty of the county appraiser to initiate the production of evidence to
23 demonstrate, by a preponderance of the evidence, the validity and
24 correctness of such determination. With regard to leased commercial and
25 industrial property, the burden of proof shall be on the taxpayer unless,
26 within 30 calendar days following the informal meeting required by
27 K.S.A. 79-1448, and amendments thereto, the taxpayer furnished to the
28 county or district appraiser a complete income and expense statement for
29 the property for the three years next preceding the year of appeal. Such
30 income and expense statement shall be in such format that is regularly
31 maintained by the taxpayer in the ordinary course of the taxpayer's
32 business. If the taxpayer submits a single property appraisal with an
33 effective date of January 1 of the year appealed, the burden of proof shall
34 return to the county appraiser. *With regard to any matter properly*
35 *submitted to the board relating to the determination of valuation of*
36 *property for taxation purposes, the board shall not increase the appraised*
37 *valuation of the property to an amount greater than the final*
38 *determination of appraised value by the county appraiser from which the*
39 *taxpayer appealed.*

40 Sec. ~~7~~ 8. K.S.A. 79-2005 is hereby amended to read as follows: 79-
41 2005. (a) Any taxpayer, before protesting the payment of such taxpayer's
42 taxes, shall be required, either at the time of paying such taxes, or, if the
43 whole or part of the taxes are paid prior to December 20, no later than

1 December 20, or, with respect to taxes paid in whole or in part in an
2 amount equal to at least $\frac{1}{2}$ of such taxes on or before December 20 by an
3 escrow or tax service agent, no later than January 31 of the next year, to
4 file a written statement with the county treasurer, on forms approved by
5 the state board of tax appeals and provided by the county treasurer, clearly
6 stating the grounds on which the whole or any part of such taxes are
7 protested and citing any law, statute or facts on which such taxpayer relies
8 in protesting the whole or any part of such taxes. When the grounds of
9 such protest is an assessment of taxes made pursuant to K.S.A. 79-332a
10 and 79-1427a, and amendments thereto, the county treasurer may not
11 distribute the taxes paid under protest until such time as the appeal is final.
12 When the grounds of such protest is that the valuation or assessment of the
13 property upon which the taxes are levied is illegal or void, the county
14 treasurer shall forward a copy of the written statement of protest to the
15 county appraiser who shall within 15 days of the receipt thereof, schedule
16 an informal meeting with the taxpayer or such taxpayer's agent or attorney
17 with reference to the property in question. At the informal meeting, it shall
18 be the duty of the county appraiser or the county appraiser's designee to
19 initiate production of evidence to substantiate the valuation of such
20 property, including a summary of the reasons that the valuation of the
21 property has been increased over the preceding year, any assumptions used
22 by the county appraiser to determine the value of the property and a
23 description of the individual property characteristics, property specific
24 valuation records and conclusions. The taxpayer shall be provided with the
25 opportunity to review the data sheets applicable to the valuation approach
26 utilized for the subject property. The county appraiser shall take into
27 account any evidence provided by the taxpayer which relates to the
28 amount of deferred maintenance and depreciation of the property. The
29 county appraiser shall review the appraisal of the taxpayer's property with
30 the taxpayer or such taxpayer's agent or attorney and may change the
31 valuation of the taxpayer's property, if in the county appraiser's opinion a
32 change in the valuation of the taxpayer's property is required to assure that
33 the taxpayer's property is valued according to law, and shall, within 15
34 business days thereof, notify the taxpayer in the event the valuation of the
35 taxpayer's property is changed, in writing of the results of the meeting.
36 *The county appraiser shall not increase the appraised valuation of the*
37 *property as a result of the informal meeting.* In the event the valuation of
38 the taxpayer's property is changed and such change requires a refund of
39 taxes and interest thereon, the county treasurer shall process the refund in
40 the manner provided by subsection (l).

41 (b) No protest appealing the valuation or assessment of property shall
42 be filed pertaining to any year's valuation or assessment when an appeal of
43 such valuation or assessment was commenced pursuant to K.S.A. 79-1448,

1 and amendments thereto, nor shall the second half payment of taxes be
2 protested when the first half payment of taxes has been protested.
3 Notwithstanding the foregoing, this provision shall not prevent any
4 subsequent owner from protesting taxes levied for the year in which such
5 property was acquired, nor shall it prevent any taxpayer from protesting
6 taxes when the valuation or assessment of such taxpayer's property has
7 been changed pursuant to an order of the director of property valuation.

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

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

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

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

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

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

39 (i) In the event of a hearing, the same shall be originally set not later
40 than 90 days after the filing of the copy of the written statement of protest
41 and a copy, when applicable, of the written notification of the results of the
42 informal meeting with the county appraiser with the board. With regard to
43 any matter properly submitted to the board relating to the determination of

1 valuation of residential property or real property used for commercial and
2 industrial purposes for taxation purposes, it shall be the duty of the county
3 appraiser to initiate the production of evidence to demonstrate, by a
4 preponderance of the evidence, the validity and correctness of such
5 determination except that no such duty shall accrue to the county or
6 district appraiser with regard to leased commercial and industrial property
7 unless the property owner has furnished to the county or district appraiser
8 a complete income and expense statement for the property for the three
9 years next preceding the year of appeal. No presumption shall exist in
10 favor of the county appraiser with respect to the validity and correctness of
11 such determination. In all instances where the board sets a request for
12 hearing and requires the representation of the county by its attorney or
13 counselor at such hearing, the county shall be represented by its county
14 attorney or counselor. The board shall take into account any evidence
15 provided by the taxpayer which relates to the amount of deferred
16 maintenance and depreciation for the property. In any appeal from the
17 reclassification of property that was classified as land devoted to
18 agricultural use for the preceding year, the taxpayer's classification of the
19 property as land devoted to agricultural use shall be presumed to be valid
20 and correct if the taxpayer provides an executed lease agreement or other
21 documentation demonstrating a commitment to use the property for
22 agricultural use, if no other actual use is evident. *With regard to any*
23 *matter properly submitted to the board relating to the determination of*
24 *valuation of property for taxation purposes, the board shall not increase*
25 *the appraised valuation of the property to an amount greater than the*
26 *appraised value reflected in the notification of the results of the informal*
27 *meeting with the county appraiser from which the taxpayer appealed.*

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

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

37 (l) (1) In the event the board orders that a refund be made pursuant to
38 this section or the provisions of K.S.A. 79-1609, and amendments thereto,
39 or a court of competent jurisdiction orders that a refund be made, and no
40 appeal is taken from such order, or in the event a change in valuation
41 which results in a refund pursuant to subsection (a), the county treasurer
42 shall, as soon thereafter as reasonably practicable, refund to the taxpayer
43 such protested taxes and, with respect to protests or appeals commenced

1 after the effective date of this act, interest computed at the rate prescribed
2 by K.S.A. 79-2968, and amendments thereto, minus two percentage points,
3 per annum from the date of payment of such taxes from tax moneys
4 collected but not distributed. Upon making such refund, the county
5 treasurer shall charge the fund or funds having received such protested
6 taxes, except that, with respect to that portion of any such refund
7 attributable to interest the county treasurer shall charge the county general
8 fund. In the event that the state board of tax appeals or a court of
9 competent jurisdiction finds that any time delay in making its decision is
10 unreasonable and is attributable to the taxpayer, it may order that no
11 interest or only a portion thereof be added to such refund of taxes.

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

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

27 (n) Whenever a taxpayer appeals to the board of tax appeals pursuant
28 to the provisions of K.S.A. 79-1609, and amendments thereto, or pays
29 taxes under protest related to one property whereby the assessed valuation
30 of such property exceeds 5% of the total county assessed valuation of all
31 property located within such county and the taxpayer receives a refund of
32 such taxes paid under protest or a refund made pursuant to the provisions
33 of K.S.A. 79-1609, and amendments thereto, the county treasurer or the
34 governing body of any taxing subdivision within a county may request the
35 pooled money investment board to make a loan to such county or taxing
36 subdivision as provided in this section. The pooled money investment
37 board is authorized and directed to loan to such county or taxing
38 subdivision sufficient funds to enable the county or taxing subdivision to
39 refund such taxes to the taxpayer. The pooled money investment board is
40 authorized and directed to use any moneys in the operating accounts,
41 investment accounts or other investments of the state of Kansas to provide
42 the funds for such loan. Each loan shall bear interest at a rate equal to the
43 net earnings rate of the pooled money investment portfolio at the time of

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

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

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

31 ~~Sec. 9.~~ **9.** K.S.A. 74-2426, **74-2433**, 74-2433f, 79-505, 79-1448, 79-
32 1609 and 79-2005 and K.S.A. 2020 Supp. 19-432 are hereby repealed.

33 ~~Sec. 10.~~ **10.** This act shall take effect and be in force from and after its
34 publication in the statute book.