SENATE BILL No. 202

By Senators Holland, Alley, Corson, Faust-Goudeau, Francisco, Haley, Hawk, Holscher, Olson, Pettey, Pittman, Sykes and Ware

AN ACT concerning taxation; relating to income and property taxation; the COVID-19 taxpayer and small business owner relief act; enacting the unemployment insurance (UI) fraud protection act exempting unemployment compensation income attributable as a result of identity fraud; enacting the retail storefront small business owner rebate act providing a refundable credit for certain retail storefront property tax; enacting the small business property tax increase relief act establishing a payment plan for certain extraordinary increases in property taxation.

WHEREAS, The provisions of sections 1 through 3 shall be known and may be cited as the COVID-19 taxpayer and small business owner relief act.

Now, therefore:

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

Section 1. This section shall be known and may be cited as the unemployment insurance (UI) fraud protection act. Notwithstanding any other provision of law to the contrary, for any individual whose identity was fraudulently used to secure unemployment compensation, if such individual never received such compensation, such compensation shall not be considered gross income and shall not be taxable for Kansas income tax purposes after determination by the department of revenue that the benefits were obtained fraudulently by another individual.

Sec. 2. (a) This section shall be known and may be cited as the retail storefront small business owner rebate act.

(b) For taxable years 2020, 2021 and 2022, there shall be allowed as a credit against the tax liability of a taxpayer imposed under the Kansas income tax act an amount equal to 25% of the ad valorem property tax for the taxable year assessed on non-essential business property in Kansas when: (1) The taxpayer owns such property; (2) the taxpayer owns and operates a non-essential business at, in or on such property; and (3) the operation of the taxpayer's non-essential business was directly impacted by a COVID-19 order imposed by the state or a city or county health department that was in effect during at least part of the taxable year. If the property is occupied by multiple businesses, then only the ad valorem...
property tax attributable to the portion of the property occupied by the
impacted non-essential business of the taxpayer is eligible for the credit
pursuant to this section. For purposes of this section, "business property"
means retail storefront property where customers or clients actually visit
the property to obtain goods or services.

(c) The total amount of the credit allowed pursuant to this section for
any one taxable year for any one taxpayer shall not exceed $1,000. When a
non-essential business property is owned by more than one taxpayer, only
one taxpayer shall claim the credit allowed pursuant to this section.

(d) If the amount of such tax credit exceeds the taxpayer's income tax
liability for the taxable year, the amount of credit that exceeds such tax
liability shall be refunded to the taxpayer. The amount of any claim
otherwise payable under this section may be applied by the director of
taxation against any liability outstanding on the books of the department of
revenue against the taxpayer.

(e) The secretary of revenue may establish a claim process for a
refund of the credit claimed pursuant to this section. The secretary of
revenue may adopt rules and regulations regarding the filing of documents
that support the amount of the credit claimed pursuant to this section.
Every taxpayer claiming the credit under this section shall supply to the
director of taxation information and documentation to support the claim,
including, but not limited to, proof of ownership of the property, the tax
statement for the property for the taxable year, a description of the non-
essential business operated by the taxpayer at the property, the state or
county health department COVID-19 order applicable to the non-essential
business and evidence that the taxpayer complied with the order.

(f) Except as provided in subsection (g): (1) For taxable year 2020, no
claim shall be paid or allowed unless such claim is filed with the
department of revenue on or before April 15, 2022; and (2) for taxable
years 2021 and 2022, no claim shall be paid or allowed unless such claim
is filed with the department of revenue on or before April 15 of the year
following the taxable year.

(g) The director of taxation may extend the time for filing any claim
or accept a claim filed after the filing deadline when good cause exists, if
the claim has been filed within three years of the deadline.

(h) This section shall be a part of and supplemental to the Kansas
income tax act.

Sec. 3. (a) This section shall be known and may be cited as the small
business property tax increase relief act. The purpose of this act is to
provide an assessed valuation increase deferral program payment plan for
a portion of increased ad valorem property taxes when taxpayers
experience certain extraordinary increases in valuation and taxation on
property. The provisions of this section shall apply to all tax years

(b) In order to be eligible for the assessed valuation increase deferral program payment plan, the property shall meet all of the following requirements:

(1) The property shall have had no material or meaningful changes to its property characteristics, no new construction or improvements and no changes in use during the calendar year immediately preceding January 1 of the tax year at issue;

(2) the assessed valuation of the property for the tax year at issue increased by more than 40% in excess of its assessed valuation for the previous year;

(3) the appraised valuation of the property as reflected on the valuation notice for the tax year at issue does not exceed $10,000,000; and

(4) the total ad valorem property tax for the tax year at issue for the property exceeds its total ad valorem property tax for the previous year by more than 40%.

(c) In addition to the requirements of subsection (b), for a taxpayer to be eligible for the payment plan for the tax year at issue, the taxpayer shall pay to the county treasurer at least an amount equal to 140% of the previous year’s property tax on or before December 20 of the tax year at issue, or 1/2 thereof on or before December 20 and the remaining 1/2 on or before May 10 next ensuing, to be applied toward the property tax due for the tax year at issue.

(d) If all the requirements of subsections (b) and (c) are satisfied, then the remainder of the property tax due for the tax year at issue shall be deferred and allowed to be paid over the course of the next four years. At least 1/4 of the remaining property tax due as of May 11 next ensuing shall be paid to the county treasurer on or before each December 20 of the four years immediately following the tax year at issue. Notwithstanding the provisions of K.S.A. 79-2004 and 79-2004a, and amendments thereto, no interest shall accrue on such deferred taxes so long as payments are timely and properly made to the county treasurer pursuant to the provisions of this section. Notwithstanding any provisions to the contrary, taxes properly deferred under the program shall not be considered delinquent.

(e) An eligible taxpayer shall file an application with the county treasurer on or before December 10 of the tax year at issue in order to participate in the program. The county treasurer shall determine eligibility and calculate the payments due.

(f) If the taxpayer sells or transfers the property before all the deferred tax is paid or the taxpayer fails to timely make any 1/4 payment on or before December 20, then the payment plan ceases, the deferred tax shall be due immediately and interest shall accrue at the rate as prescribed in K.S.A. 79-2004 or 79-2004a, and amendments thereto, until the tax is
paid.

(g) (1) With respect to property that may be eligible for the assessed valuation increase deferral program, the notice of valuation mailed pursuant to K.S.A. 79-1460, and amendments thereto, shall include a notice explaining that the taxpayer may be eligible for the assessed valuation increase deferral program and how to contact the county treasurer for information about the program.

(2) With respect to property that may be eligible for the assessed valuation increase deferral program, the county treasurer shall include with the property tax statement a notice explaining that the taxpayer may be eligible for the assessed valuation increase deferral program, how to contact the county treasurer for information about the program and the deadline for applications.

(3) The county treasurer is authorized to adjust accordingly any unpaid tax amounts remaining in the payment plan when an assessed valuation of a property is changed by a final determination of the valuation appeals process or the payment under protest process.

(h) 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 subsection. 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 account for the deferral of tax payments pursuant to this program. 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. 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 or the governing body, who shall deposit such amount in the treasury of such county or taxing subdivision. Any such loan authorized pursuant to this subsection shall be repaid within four years.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.