

House Substitute for SENATE BILL No. 59

By Committee on Taxation

5-4

1 AN ACT concerning property taxation; relating to exemptions;
2 commercial and industrial machinery and equipment; **{bed and**
3 **breakfast homes;}** classification; amending K.S.A. 2011 Supp. 79-223
4 **{and 79-1439}**; and repealing the existing section**{sections}**.
5

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

7 Section 1. K.S.A. 2011 Supp. 79-223 is hereby amended to read as
8 follows: 79-223. (a) It is the purpose of this section to promote, stimulate,
9 foster and encourage new investments in commercial and industrial
10 machinery and equipment in the state of Kansas, to contribute to the
11 economic recovery of the state, to enhance business opportunities in the
12 state, to encourage the location of new businesses and industries in the
13 state as well as the retention and expansion of existing businesses and
14 industries and to promote the economic stability of the state by
15 maintaining and providing employment opportunities, thereby contributing
16 to the general welfare of the citizens of the state, by exempting from
17 property taxation all newly purchased or leased commercial and industrial
18 machinery and equipment, including machinery and equipment transferred
19 into this state for the purpose of expanding an existing business or for the
20 creation of a new business.

21 (b) The following described property, to the extent specified by this
22 section, shall be and is hereby exempt from all property or ad valorem
23 taxes levied under the laws of the state of Kansas:

24 First. Commercial and industrial machinery and equipment acquired
25 by qualified purchase or lease made or entered into after June 30, 2006, as
26 the result of a bona fide transaction not consummated for the purpose of
27 avoiding taxation.

28 Second. Commercial and industrial machinery and equipment
29 transported into this state after June 30, 2006, for the purpose of expanding
30 an existing business or creation of a new business.

31 (c) Any purchase, lease or transportation of commercial and industrial
32 machinery and equipment consummated for the purpose of avoiding
33 taxation shall subject the property to the penalty provisions of K.S.A. 79-
34 1422 and 79-1427a, and amendments thereto. The county appraiser shall
35 not reclassify any property that is properly classified for property tax
36 purposes within subclass (5) of class 2 of section 1 of article 11 of the

1 constitution of the state of Kansas.

2 (d) *Commercial and industrial machinery and equipment which was*
3 *subject to and approved for abatement and exempted, ~~or~~ {and was}*
4 *classified as personal property as of July 1, 2006, shall be classified as*
5 *personal property {for tax years 2012, 2013 and 2014,}* and shall not be
6 reclassified to any other property tax class or subclass. ~~{The provisions of~~
7 ~~this subsection shall expire and have no effect on and after July 1,~~
8 ~~2014.}~~ **{The provisions of this subsection shall expire and have no**
9 **effect after December 31, 2014.}**

10 (e) *Any commercial and industrial machinery and equipment*
11 *acquired on or after January 1, 2011, and exempted pursuant to this*
12 *section shall not lose such exemption by its attachment, annexation or*
13 *adaption to real estate. The provisions of this subsection shall expire and*
14 *have no effect on and after July 1, 2014.*

15 (f) As used in this section:

16 (1) "Acquired" shall not include the transfer of property pursuant to
17 an exchange for stock securities, or the transfer of assets from one going
18 concern to another due to a merger, reorganization or other consolidation;

19 (2) "commercial and industrial machinery and equipment" means
20 property classified for property tax purposes within subclass (5) of class 2
21 of section 1 of article 11 of the constitution of the state of Kansas;

22 (3) "qualified lease" means a lease of commercial and industrial
23 machinery and equipment for not less than 30 days for fair and valuable
24 consideration where such machinery and equipment is physically
25 transferred to the lessee to be used in the lessee's business or trade; and

26 (4) "qualified purchase" means a purchase of commercial and
27 industrial machinery and equipment for fair and valuable consideration
28 where such machinery and equipment is physically transferred to the
29 purchaser to be used in the purchaser's business or trade.

30 (e) (g) The secretary of revenue is hereby authorized to adopt rules
31 and regulations to administer the provisions of this section.

32 **{Sec. 2. K.S.A. 2011 Supp. 79-1439 is hereby amended to read as**
33 **follows: 79-1439. (a) All real and tangible personal property which is**
34 **subject to general *ad valorem* taxation shall be appraised uniformly**
35 **and equally as to class and, unless otherwise specified herein, shall be**
36 **appraised at its fair market value, as defined in K.S.A. 79-503a, and**
37 **amendments thereto.**

38 (b) **Property shall be classified into the following classes and**
39 **assessed at the percentage of value prescribed therefor:**

40 (1) **Real property shall be assessed as to subclass at the following**
41 **percentages of value:**

42 (A) **Real property used for residential purposes including multi-**
43 **family residential real property, real property necessary to**

1 accommodate a residential community of mobile or manufactured
2 homes including the real property upon which such homes are located,
3 residential real property used partially for day care home purposes if
4 such home has been registered or licensed pursuant to K.S.A. 65-501
5 *et seq.*, and amendments thereto, and residential real property used
6 partially for bed and breakfast home purposes at 11.5%. As used in
7 this paragraph "bed and breakfast home" means a residence with five
8 or fewer bedrooms available for overnight guests who stay for not
9 more than 28 consecutive days for which there is compliance with all
10 zoning or other applicable ordinances or laws which pertain to
11 facilities which lodge and feed guests, *and includes structures used for*
12 *bed and breakfast purposes which are adjacent to the main bed and*
13 *breakfast home when located on the same parcel of land on which the bed*
14 *and breakfast home is located or on land owned by the same owner of the*
15 *land upon which the bed and breakfast home is located which is*
16 *contiguous to the land on which the bed and breakfast home is located*
17 *when such structure is not used for the production of income other than*
18 *the production of income generated from bed and breakfast purposes;*

19 (B) land devoted to agricultural use valued pursuant to K.S.A.
20 79-1476, and amendments thereto, at 30%;

21 (C) vacant lots at 12%;

22 (D) real property which is owned and operated by a not-for-profit
23 organization not subject to federal income taxation pursuant to
24 section 501 of the federal internal revenue code and included herein
25 pursuant to K.S.A. 79-1439a, and amendments thereto, at 12%;

26 (E) public utility real property, except railroad property which
27 shall be assessed at the average rate all other commercial and
28 industrial property is assessed, at 33%. As used in this paragraph,
29 "public utility" shall have the meaning ascribed thereto by K.S.A. 79-
30 5a01, and amendments thereto;

31 (F) real property used for commercial and industrial purposes
32 and buildings and other improvements located upon land devoted to
33 agricultural use at 25%; and

34 (G) all other urban and rural real property not otherwise
35 specifically subclassed at 30%.

36 (2) Personal property shall be classified into the following classes
37 and assessed at the percentage of value prescribed therefor:

38 (A) Mobile homes used for residential purposes at 11.5%;

39 (B) mineral leasehold interests, except oil leasehold interests the
40 average daily production from which is five barrels or less, and
41 natural gas leasehold interests, the average daily production from
42 which is 100 mcf or less, which shall be assessed at 25%, at 30%;

43 (C) public utility tangible personal property including inventories

1 thereof, except railroad personal property including inventories
2 thereof, which shall be assessed at the average rate all other
3 commercial and industrial property is assessed, at 33%. As used in
4 this paragraph, "public utility" shall have the meaning ascribed
5 thereto by K.S.A. 79-5a01, and amendments thereto;

6 (D) all categories of motor vehicles listed and taxed pursuant to
7 K.S.A. 79-306d, and amendments thereto, and over-the-road motor
8 vehicles defined pursuant to K.S.A. 79-6a01, and amendments thereto,
9 at 30%;

10 (E) commercial and industrial machinery and equipment,
11 including rolling equipment defined pursuant to K.S.A. 79-6a01, and
12 amendments thereto, which, if its economic life is seven years or more,
13 shall be valued at its retail cost when new less seven-year straight-line
14 depreciation, or which, if its economic life is less than seven years,
15 shall be valued at its retail cost when new less straight-line
16 depreciation over its economic life, except that, the value so obtained
17 for such property as long as it is being used shall not be less than 20%
18 of the retail cost when new of such property at 25%; and

19 (F) all other tangible personal property not otherwise specifically
20 classified at 30%.)

21 Sec. ~~2~~ {3}. K.S.A. 2011 Supp. 79-223 ~~is~~ {and 79-1439 are} hereby
22 repealed.

23 Sec. ~~3~~ {4}. This act shall take effect and be in force from and after its
24 publication in the statute book.
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