

As Amended by Senate Committee

Session of 2014

SENATE BILL No. 410

By Committee on Assessment and Taxation

2-18

1 AN ACT concerning property taxation; relating to exemptions for certain
2 donations of property to the state; amending K.S.A. 2013 Supp. 79-213
3 and repealing the existing section.

4

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

6 Section 1. K.S.A. 2013 Supp. 79-213 is hereby amended to read as
7 follows: 79-213. (a) Any property owner requesting an exemption from the
8 payment of ad valorem property taxes assessed, or to be assessed, against
9 their property shall be required to file an initial request for exemption, on
10 forms approved by the state court of tax appeals and provided by the
11 county appraiser.

12 (b) The initial exemption request shall identify the property for which
13 the exemption is requested and state, in detail, the legal and factual basis
14 for the exemption claimed.

15 (c) The request for exemption shall be filed with the county appraiser
16 of the county where such property is principally located.

17 (d) After a review of the exemption request, and after a preliminary
18 examination of the facts as alleged, the county appraiser shall recommend
19 that the exemption request either be granted or denied, and, if necessary,
20 that a hearing be held. If a denial is recommended, a statement of the
21 controlling facts and law relied upon shall be included on the form.

22 (e) The county appraiser, after making such written recommendation,
23 shall file the request for exemption and the recommendations of the county
24 appraiser with the state court of tax appeals. *Except with regard to a*
~~K.S.A. 79-201g, and amendments thereto, the county appraiser shall file~~
~~the request for exemption and recommendations with the county~~
~~commission. If the county commission determines the request for~~
~~exemption should be granted, the exemption shall be provided in the~~
~~amount determined by the county commission. The county clerk or county~~
~~assessor shall annually make such adjustment in the taxes levied against~~
~~the land as the owner may be entitled to receive under the provisions of~~
~~K.S.A. 79-201g, and amendments thereto, as determined by the county~~
~~commission, beginning with the first period, following the date of issue of~~
~~the certificate of completion on which taxes are regularly levied, and~~
36 ~~during the years which the landowner is entitled to such adjustment. An~~

1 ~~appeal may be taken from the determination of the county commission to~~
2 ~~the court of tax appeals within 30 days of the county commission's~~
3 ~~determination With regard to a request for exemption from property tax~~
4 ~~pursuant to the provisions of K.S.A. 79-201g and 82a-409, and~~
5 ~~amendments thereto, not filed with the court of tax appeals by the county~~
6 ~~appraiser on or before the effective date of this act, if the county~~
7 ~~appraiser recommends the exemption request be granted, the exemption~~
8 ~~shall be provided in the amount recommended by the county appraiser~~
9 ~~and the county appraiser shall not file the request for exemption and~~
10 ~~recommendations of the county appraiser with the state court of tax~~
11 ~~appeals. The county clerk or county assessor shall annually make such~~
12 ~~adjustment in the taxes levied against the real property as the owner may~~
13 ~~be entitled to receive under the provisions of K.S.A. 79-201g, and~~
14 ~~amendments thereto, as recommended by the county appraiser,~~
15 ~~beginning with the first period, following the date of issue of the~~
16 ~~certificate of completion on which taxes are regularly levied, and during~~
17 ~~the years which the landowner is entitled to such adjustment.~~

18 (f) Upon receipt of the request for exemption—~~or appeal from the~~
19 ~~determination of the county commission~~, the court shall docket the same
20 and notify the applicant and the county appraiser of such fact; ~~and in the~~
21 ~~case of an appeal from a determination of the county commission, shall~~
22 ~~also notify the county commission.~~

23 (g) After examination of the request for exemption; ~~and~~ and the
24 county appraiser's recommendation related thereto ~~and the county~~
25 ~~commission's determination, if applicable~~, the court may fix a time and
26 place for hearing, ~~and in the case of an appeal from a determination of the~~
27 ~~county commission, shall fix a time and place for hearing~~ and shall notify
28 the applicant ~~and~~ and the county appraiser ~~and the county commission, if~~
29 ~~applicable~~; of the time and place so fixed. A request for exemption
30 pursuant to: (1) Section 13 of article 11 of the Kansas constitution; or (2)
31 K.S.A. 79-201a *Second*, and amendments thereto, for property constructed
32 or purchased, in whole or in part, with the proceeds of revenue bonds
33 under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and
34 amendments thereto, prepared in accordance with instructions and
35 assistance which shall be provided by the department of commerce, shall
36 be deemed approved unless scheduled for hearing within 30 days after the
37 date of receipt of all required information and data relating to the request
38 for exemption, and such hearing shall be conducted within 90 days after
39 such date. Such time periods shall be determined without regard to any
40 extension or continuance allowed to either party to such request. In any
41 case where a party to such request for exemption requests a hearing
42 thereon, the same shall be granted. Hearings shall be conducted in
43 accordance with the provisions of the Kansas administrative procedure act.

1 In all instances where the court sets a request for exemption for hearing,
2 the county shall be represented by its county attorney or county counselor.

3 (h) Except as otherwise provided by subsection (g), in the event of a
4 hearing, the same shall be originally set not later than 90 days after the
5 filing of the request for exemption with the court.

6 (i) During the pendency of a request for exemption, no person, firm,
7 unincorporated association, company or corporation charged with real
8 estate or personal property taxes pursuant to K.S.A. 79-2004 and 79-
9 2004a, and amendments thereto, on the tax books in the hands of the
10 county treasurer shall be required to pay the tax from the date the request
11 is filed with the county appraiser until the expiration of 30 days after the
12 court issued its order thereon and the same becomes a final order. In the
13 event that taxes have been assessed against the subject property, no interest
14 shall accrue on any unpaid tax for the year or years in question nor shall
15 the unpaid tax be considered delinquent from the date the request is filed
16 with the county appraiser until the expiration of 30 days after the court
17 issued its order thereon. In the event the court determines an application
18 for exemption is without merit and filed in bad faith to delay the due date
19 of the tax, the tax shall be considered delinquent as of the date the tax
20 would have been due pursuant to K.S.A. 79-2004 and 79-2004a, and
21 amendments thereto, and interest shall accrue as prescribed therein.

22 (j) In the event the court grants the initial request for exemption, the
23 same shall be effective beginning with the date of first exempt use except
24 that, with respect to property the construction of which commenced not to
25 exceed 24 months prior to the date of first exempt use, the same shall be
26 effective beginning with the date of commencement of construction.

27 (k) In conjunction with its authority to grant exemptions, the court
28 shall have the authority to abate all unpaid taxes that have accrued from
29 and since the effective date of the exemption. In the event that taxes have
30 been paid during the period where the subject property has been
31 determined to be exempt, the court shall have the authority to order a
32 refund of taxes for the year immediately preceding the year in which the
33 exemption application is filed in accordance with subsection (a).

34 (l) The provisions of this section shall not apply to: (1) Farm
35 machinery and equipment exempted from ad valorem taxation by K.S.A.
36 79-201j, and amendments thereto; (2) personal property exempted from ad
37 valorem taxation by K.S.A. 79-215, and amendments thereto; (3) wearing
38 apparel, household goods and personal effects exempted from ad valorem
39 taxation by K.S.A. 79-201c, and amendments thereto; (4) livestock; (5) all
40 property exempted from ad valorem taxation by K.S.A. 79-201d, and
41 amendments thereto; (6) merchants' and manufacturers' inventories
42 exempted from ad valorem taxation by K.S.A. 79-201m, and amendments
43 thereto; (7) grain exempted from ad valorem taxation by K.S.A. 79-201n,

1 and amendments thereto; (8) property exempted from ad valorem taxation
2 by K.S.A. 79-201a *Seventeenth*, and amendments thereto, including all
3 property previously acquired by the secretary of transportation or a
4 predecessor in interest, which is used in the administration, construction,
5 maintenance or operation of the state system of highways. The secretary of
6 transportation shall at the time of acquisition of property notify the county
7 appraiser in the county in which the property is located that the acquisition
8 occurred and provide a legal description of the property acquired; (9)
9 property exempted from ad valorem taxation by K.S.A. 79-201a *Ninth*,
10 and amendments thereto, including all property previously acquired by the
11 Kansas turnpike authority which is used in the administration,
12 construction, maintenance or operation of the Kansas turnpike. The Kansas
13 turnpike authority shall at the time of acquisition of property notify the
14 county appraiser in the county in which the property is located that the
15 acquisition occurred and provide a legal description of the property
16 acquired; (10) aquaculture machinery and equipment exempted from ad
17 valorem taxation by K.S.A. 79-201j, and amendments thereto. As used in
18 this section, "aquaculture" has the same meaning ascribed thereto by
19 K.S.A. 47-1901, and amendments thereto; (11) Christmas tree machinery
20 and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and
21 amendments thereto; (12) property used exclusively by the state or any
22 municipality or political subdivision of the state for right-of-way purposes.
23 The state agency or the governing body of the municipality or political
24 subdivision shall at the time of acquisition of property for right-of-way
25 purposes notify the county appraiser in the county in which the property is
26 located that the acquisition occurred and provide a legal description of the
27 property acquired; (13) machinery, equipment, materials and supplies
28 exempted from ad valorem taxation by K.S.A. 79-201w, and amendments
29 thereto; (14) vehicles owned by the state or by any political or taxing
30 subdivision thereof and used exclusively for governmental purposes; (15)
31 property used for residential purposes which is exempted pursuant to
32 K.S.A. 79-201x from the property tax levied pursuant to K.S.A. 72-6431,
33 and amendments thereto; (16) from and after July 1, 1998, vehicles which
34 are owned by an organization having as one of its purposes the assistance
35 by the provision of transit services to the elderly and to disabled persons
36 and which are exempted pursuant to K.S.A. 79-201 *Ninth*; (17) from and
37 after July 1, 1998, motor vehicles exempted from taxation by subsection
38 (e) of K.S.A. 79-5107, and amendments thereto; (18) commercial and
39 industrial machinery and equipment exempted from property or ad
40 valorem taxation by K.S.A. 2013 Supp. 79-223, and amendments thereto;
41 (19) telecommunications machinery and equipment and railroad
42 machinery and equipment exempted from property or ad valorem taxation
43 by K.S.A. 2013 Supp. 79-224, and amendments thereto; and (20) property

1 exempted from property or ad valorem taxation by K.S.A. 2013 Supp. 79-
2 234, and amendments thereto.

3 (m) The provisions of this section shall apply to property exempt
4 pursuant to the provisions of section 13 of article 11 of the Kansas
5 constitution.

6 (n) The provisions of subsection (k) as amended by this act shall be
7 applicable to all exemption applications filed in accordance with
8 subsection (a) after December 31, 2001.

9 Sec. 2. K.S.A. 2013 Supp. 79-213 is hereby repealed.

10 Sec. 3. This act shall take effect and be in force from and after its
11 publication in the Kansas register.