

HOUSE BILL No. 2340

By Committee on Taxation

2-14

1 AN ACT concerning property taxation; relating to distribution of certain
2 property taxes paid under protest; amending K.S.A. 2018 Supp. 79-
3 2005 and repealing the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2018 Supp. 79-2005 is hereby amended to read as
7 follows: 79-2005. (a) Any taxpayer, before protesting the payment of such
8 taxpayer's taxes, shall be required, either at the time of paying such taxes,
9 or, if the whole or part of the taxes are paid prior to December 20, no later
10 than December 20, or, with respect to taxes paid in whole or in part in an
11 amount equal to at least $\frac{1}{2}$ of such taxes on or before December 20 by an
12 escrow or tax service agent, no later than January 31 of the next year, to
13 file a written statement with the county treasurer, on forms approved by
14 the state board of tax appeals and provided by the county treasurer, clearly
15 stating the grounds on which the whole or any part of such taxes are
16 protested and citing any law, statute or facts on which such taxpayer relies
17 in protesting the whole or any part of such taxes. When the grounds of
18 such protest is an assessment of taxes made pursuant to K.S.A. 79-332a
19 and 79-1427a, and amendments thereto, the county treasurer may not
20 distribute the taxes paid under protest until such time as the appeal is final.

21 *The county treasurer may not distribute the portion of taxes that exceed*
22 *the preceding year's taxes until such time as the appeal is final when: (1)*
23 *The grounds of such protest is the valuation of or assessment of taxes on*
24 *property classified in subclass 1 of class 1 of section 1 of article 11 of the*
25 *constitution of the state of Kansas, and the amount of tax exceeding the*
26 *preceding year's tax is \$500 or more; or (2) the grounds of such protest is*
27 *the valuation of or assessment of taxes on property classified in subclass 6*
28 *of class 1 of section 1 of article 11 of the constitution of the state of*
29 *Kansas, and the amount of tax exceeding the preceding year's tax is*
30 *\$1,000 or more. When the grounds of such protest is that the valuation or*
31 *assessment of the property upon which the taxes are levied is illegal or*
32 *void, the county treasurer shall forward a copy of the written statement of*
33 *protest to the county appraiser who shall within 15 days of the receipt*
34 *thereof, schedule an informal meeting with the taxpayer or such taxpayer's*
35 *agent or attorney with reference to the property in question. At the*
36 *informal meeting, it shall be the duty of the county appraiser or the county*

1 appraiser's designee to initiate production of evidence to substantiate the
2 valuation of such property, including a summary of the reasons that the
3 valuation of the property has been increased over the preceding year, any
4 assumptions used by the county appraiser to determine the value of the
5 property and a description of the individual property characteristics,
6 property specific valuation records and conclusions. The taxpayer shall be
7 provided with the opportunity to review the data sheets applicable to the
8 valuation approach utilized for the subject property. The county appraiser
9 shall take into account any evidence provided by the taxpayer which
10 relates to the amount of deferred maintenance and depreciation of the
11 property. The county appraiser shall review the appraisal of the taxpayer's
12 property with the taxpayer or such taxpayer's agent or attorney and may
13 change the valuation of the taxpayer's property, if in the county appraiser's
14 opinion a change in the valuation of the taxpayer's property is required to
15 assure that the taxpayer's property is valued according to law, and shall,
16 within 15 business days thereof, notify the taxpayer in the event the
17 valuation of the taxpayer's property is changed, in writing of the results of
18 the meeting. In the event the valuation of the taxpayer's property is
19 changed and such change requires a refund of taxes and interest thereon,
20 the county treasurer shall process the refund in the manner provided by
21 subsection (l).

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

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

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

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

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

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

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

20 (i) In the event of a hearing, the same shall be originally set not later
21 than 90 days after the filing of the copy of the written statement of protest
22 and a copy, when applicable, of the written notification of the results of the
23 informal meeting with the county appraiser with the board. With regard to
24 any matter properly submitted to the board relating to the determination of
25 valuation of residential property or real property used for commercial and
26 industrial purposes for taxation purposes, it shall be the duty of the county
27 appraiser to initiate the production of evidence to demonstrate, by a
28 preponderance of the evidence, the validity and correctness of such
29 determination except that no such duty shall accrue to the county or
30 district appraiser with regard to leased commercial and industrial property
31 unless the property owner has furnished to the county or district appraiser
32 a complete income and expense statement for the property for the three
33 years next preceding the year of appeal. No presumption shall exist in
34 favor of the county appraiser with respect to the validity and correctness of
35 such determination. In all instances where the board sets a request for
36 hearing and requires the representation of the county by its attorney or
37 counselor at such hearing, the county shall be represented by its county
38 attorney or counselor. The board shall take into account any evidence
39 provided by the taxpayer which relates to the amount of deferred
40 maintenance and depreciation for the property. In any appeal from the
41 reclassification of property that was classified as land devoted to
42 agricultural use for the preceding year, the taxpayer's classification of the
43 property as land devoted to agricultural use shall be presumed to be valid

1 and correct if the taxpayer provides an executed lease agreement or other
2 documentation demonstrating a commitment to use the property for
3 agricultural use, if no other actual use is evident.

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

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

13 (l) (1) In the event the board orders that a refund be made pursuant to
14 this section or the provisions of K.S.A. 79-1609, and amendments thereto,
15 or a court of competent jurisdiction orders that a refund be made, and no
16 appeal is taken from such order, or in the event a change in valuation
17 which results in a refund pursuant to subsection (a), the county treasurer
18 shall, as soon thereafter as reasonably practicable, refund to the taxpayer
19 such protested taxes and, with respect to protests or appeals commenced
20 after the effective date of this act, interest computed at the rate prescribed
21 by K.S.A. 79-2968, and amendments thereto, minus two percentage points,
22 per annum from the date of payment of such taxes from tax moneys
23 collected but not distributed. Upon making such refund, the county
24 treasurer shall charge the fund or funds having received such protested
25 taxes, except that, with respect to that portion of any such refund
26 attributable to interest the county treasurer shall charge the county general
27 fund. In the event that the state board of tax appeals or a court of
28 competent jurisdiction finds that any time delay in making its decision is
29 unreasonable and is attributable to the taxpayer, it may order that no
30 interest or only a portion thereof be added to such refund of taxes.

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

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

1 warrants and the interest thereon. All such tax levies shall be in addition to
2 all other levies authorized by law.

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

38 (o) *Except as provided in subsection (a)*, the county treasurer shall
39 disburse to the proper funds all portions of taxes paid under protest and
40 shall maintain a record of all portions of such taxes which are so protested
41 and shall notify the governing body of the taxing district levying such
42 taxes thereof and the director of accounts and reports if any tax protested
43 was levied by the state.

- 1 (p) This statute shall not apply to the valuation and assessment of
2 property assessed by the director of property valuation and it shall not be
3 necessary for any owner of state assessed property, who has an appeal
4 pending before the state board of tax appeals, to protest the payment of
5 taxes under this statute solely for the purpose of protecting the right to a
6 refund of taxes paid under protest should that owner be successful in that
7 appeal.
- 8 Sec. 2. K.S.A. 2018 Supp. 79-2005 is hereby repealed.
- 9 Sec. 3. This act shall take effect and be in force from and after its
10 publication in the statute book.