

As Amended by House Committee

Session of 2017

HOUSE BILL No. 2228

By Committee on Taxation

1-31

1 AN ACT concerning property taxation; relating to exemptions; allowing
2 county appraisers to exempt certain property without order from the
3 board of tax appeals; amending K.S.A. 2016 Supp. 79-213 and
4 repealing the existing section.
5

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

7 Section 1. K.S.A. 2016 Supp. 79-213 is hereby amended to read as
8 follows: 79-213. (a) Any property owner requesting an exemption from the
9 payment of ad valorem property taxes assessed, or to be assessed, against
10 their property shall be required to file an initial request for exemption, on
11 forms approved by the state board of tax appeals and provided by the
12 county appraiser.

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

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

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

23 (e) The county appraiser, after making such written recommendation,
24 shall file the request for exemption and the recommendations of the county
25 appraiser with the state board of tax appeals. With regard to a request for
26 exemption from property tax pursuant to the provisions of K.S.A. 79-201g
27 and 82a-409, and amendments thereto, not filed with the board of tax
28 appeals by the county appraiser on or before the effective date of this act,
29 if the county appraiser recommends the exemption request be granted, the
30 exemption shall be provided in the amount recommended by the county
31 appraiser and the county appraiser shall not file the request for exemption
32 and recommendations of the county appraiser with the state board of tax
33 appeals. The county clerk or county assessor shall annually make such
34 adjustment in the taxes levied against the real property as the owner may
35 be entitled to receive under the provisions of K.S.A. 79-201g, and
36 amendments thereto, as recommended by the county appraiser, beginning

1 with the first period, following the date of issue of the certificate of
2 completion on which taxes are regularly levied, and during the years
3 which the landowner is entitled to such adjustment.

4 (f) Upon receipt of the request for exemption, the board shall docket
5 the same and notify the applicant and the county appraiser of such fact.

6 (g) After examination of the request for exemption and the county
7 appraiser's recommendation related thereto, the board may fix a time and
8 place for hearing, and shall notify the applicant and the county appraiser of
9 the time and place so fixed. A request for exemption pursuant to: (1)
10 Section 13 of article 11 of the constitution of the state of Kansas; or (2)
11 K.S.A. 79-201a *Second*, and amendments thereto, for property constructed
12 or purchased, in whole or in part, with the proceeds of revenue bonds
13 under the authority of K.S.A. 12-1740 ~~to~~ through 12-1749, ~~inclusive~~, and
14 amendments thereto, prepared in accordance with instructions and
15 assistance which shall be provided by the department of commerce, shall
16 be deemed approved unless scheduled for hearing within 30 days after the
17 date of receipt of all required information and data relating to the request
18 for exemption, and such hearing shall be conducted within 90 days after
19 such date. Such time periods shall be determined without regard to any
20 extension or continuance allowed to either party to such request. In any
21 case where a party to such request for exemption requests a hearing
22 thereon, the same shall be granted. Hearings shall be conducted in
23 accordance with the provisions of the Kansas administrative procedure act.
24 In all instances where the board sets a request for exemption for hearing,
25 the county shall be represented by its county attorney or county counselor.

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

29 (i) During the pendency of a request for exemption, no person, firm,
30 unincorporated association, company or corporation charged with real
31 estate or personal property taxes pursuant to K.S.A. 79-2004 and 79-
32 2004a, and amendments thereto, on the tax books in the hands of the
33 county treasurer shall be required to pay the tax from the date the request
34 is filed with the county appraiser until the expiration of 30 days after the
35 board issued its order thereon and the same becomes a final order. In the
36 event that taxes have been assessed against the subject property, no interest
37 shall accrue on any unpaid tax for the year or years in question nor shall
38 the unpaid tax be considered delinquent from the date the request is filed
39 with the county appraiser until the expiration of 30 days after the board
40 issued its order thereon. In the event the board determines an application
41 for exemption is without merit and filed in bad faith to delay the due date
42 of the tax, the tax shall be considered delinquent as of the date the tax
43 would have been due pursuant to K.S.A. 79-2004 and 79-2004a, and

1 amendments thereto, and interest shall accrue as prescribed therein.

2 (j) In the event the board grants the initial request for exemption, the
3 same shall be effective beginning with the date of first exempt use except
4 that, with respect to property the construction of which commenced not to
5 exceed 24 months prior to the date of first exempt use, the same shall be
6 effective beginning with the date of commencement of construction.

7 (k) In conjunction with its authority to grant exemptions, the board
8 shall have the authority to abate all unpaid taxes that have accrued from
9 and since the effective date of the exemption. In the event that taxes have
10 been paid during the period where the subject property has been
11 determined to be exempt, the board shall have the authority to order a
12 refund of taxes for the year immediately preceding the year in which the
13 exemption application is filed in accordance with subsection (a).

14 (l) The provisions of this section shall not apply to: (1) Farm
15 machinery and equipment exempted from ad valorem taxation by K.S.A.
16 79-201j, and amendments thereto; (2) personal property exempted from ad
17 valorem taxation by K.S.A. 79-215, and amendments thereto; (3) wearing
18 apparel, household goods and personal effects exempted from ad valorem
19 taxation by K.S.A. 79-201c, and amendments thereto; (4) livestock; (5) all
20 property exempted from ad valorem taxation by K.S.A. 79-201d, and
21 amendments thereto; (6) merchants' and manufacturers' inventories
22 exempted from ad valorem taxation by K.S.A. 79-201m, and amendments
23 thereto; (7) grain exempted from ad valorem taxation by K.S.A. 79-201n,
24 and amendments thereto; (8) property exempted from ad valorem taxation
25 by K.S.A. 79-201a *Seventeenth*, and amendments thereto, including all
26 property previously acquired by the secretary of transportation or a
27 predecessor in interest, which is used in the administration, construction,
28 maintenance or operation of the state system of highways. The secretary of
29 transportation shall at the time of acquisition of property notify the county
30 appraiser in the county in which the property is located that the acquisition
31 occurred and provide a legal description of the property acquired; (9)
32 property exempted from ad valorem taxation by K.S.A. 79-201a *Ninth*,
33 and amendments thereto, including all property previously acquired by the
34 Kansas turnpike authority which is used in the administration,
35 construction, maintenance or operation of the Kansas turnpike. The Kansas
36 turnpike authority shall at the time of acquisition of property notify the
37 county appraiser in the county in which the property is located that the
38 acquisition occurred and provide a legal description of the property
39 acquired; (10) aquaculture machinery and equipment exempted from ad
40 valorem taxation by K.S.A. 79-201j, and amendments thereto. As used in
41 this section, "aquaculture" has the same meaning ascribed thereto by
42 K.S.A. 47-1901, and amendments thereto; (11) Christmas tree machinery
43 and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and

1 amendments thereto; (12) property used exclusively by the state or any
2 municipality or political subdivision of the state for right-of-way purposes.
3 The state agency or the governing body of the municipality or political
4 subdivision shall at the time of acquisition of property for right-of-way
5 purposes notify the county appraiser in the county in which the property is
6 located that the acquisition occurred and provide a legal description of the
7 property acquired; (13) machinery, equipment, materials and supplies
8 exempted from ad valorem taxation by K.S.A. 79-201w, and amendments
9 thereto; (14) vehicles owned by the state or by any political or taxing
10 subdivision thereof and used exclusively for governmental purposes; (15)
11 property used for residential purposes which is exempted pursuant to
12 K.S.A. 79-201x, and amendments thereto, from the property tax levied
13 pursuant to K.S.A. 2016 Supp. 72-6470, and amendments thereto; (16)
14 from and after July 1, 1998, vehicles which are owned by an organization
15 having as one of its purposes the assistance by the provision of transit
16 services to the elderly and to disabled persons and which are exempted
17 pursuant to K.S.A. 79-201 *Ninth*, and amendments thereto; (17) from and
18 after July 1, 1998, motor vehicles exempted from taxation by K.S.A. 79-
19 5107(e), and amendments thereto; (18) commercial and industrial
20 machinery and equipment exempted from property or ad valorem taxation
21 by K.S.A. 2016 Supp. 79-223, and amendments thereto; (19)
22 telecommunications machinery and equipment and railroad machinery and
23 equipment exempted from property or ad valorem taxation by K.S.A. 2016
24 Supp. 79-224, and amendments thereto; ~~and~~ (20) property exempted from
25 property or ad valorem taxation by K.S.A. 2016 Supp. 79-234, and
26 amendments thereto; (21) *recreational vehicles exempted from property or*
27 *ad valorem taxation by K.S.A. 79-5121(e), and amendments thereto;* ~~and~~
28 (22) *property acquired by a land bank exempt from property or ad valorem*
29 *taxation pursuant to K.S.A. 2016 Supp. 12-5909 or K.S.A. 19-26,111, and*
30 *amendments thereto;* **and (23) property belonging exclusively to the**
31 **United States and exempted from ad valorem taxation by K.S.A. 79-**
32 **201a *First*, and amendments thereto, except that the provisions of this**
33 **subsection (l)(23) shall not apply to any such property that the**
34 **congress of the United States has expressly declared to be subject to**
35 **state and local taxation.**

36 (m) The provisions of this section shall apply to property exempt
37 pursuant to the provisions of section 13 of article 11 of the constitution of
38 the state of Kansas.

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

42 Sec. 2. K.S.A. 2016 Supp. 79-213 is hereby repealed.

43 Sec. 3. This act shall take effect and be in force from and after its

- 1 publication in the statute book.