

HOUSE BILL No. 3002

By Committee on Taxation

3-7

9 AN ACT concerning taxation; relating to homestead property tax re-
10 funds; claimants; amending K.S.A. 2005 Supp. 79-4502 and repealing
11 the existing section.
12

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

14 Section 1. K.S.A. 2005 Supp. 79-4502 is hereby amended to read as
15 follows: 79-4502. As used in this act, unless the context clearly indicates
16 otherwise:

17 (a) "Income" means the sum of adjusted gross income under the
18 Kansas income tax act, maintenance, support money, cash public assis-
19 tance and relief, not including any refund granted under this act, the gross
20 amount of any pension or annuity, including all monetary retirement ben-
21 efits from whatever source derived, including but not limited to, all pay-
22 ments received under the railroad retirement act, except disability pay-
23 ments and all payments received under the federal social security act
24 except disability payments, all dividends and interest from whatever
25 source derived not included in adjusted gross income, workers compen-
26 sation and the gross amount of "loss of time" insurance. Income does not
27 include gifts from nongovernmental sources or surplus food or other relief
28 in kind supplied by a governmental agency, nor shall net operating losses
29 and net capital losses be considered in the determination of income. In-
30 come does not include veterans disability pensions.

31 (b) "Household" means a claimant, a claimant and spouse who oc-
32 cupy the homestead or a claimant and one or more individuals not related
33 as husband and wife who together occupy a homestead.

34 (c) "Household income" means all income received by all persons of
35 a household in a calendar year while members of such household.

36 (d) "Homestead" means the dwelling, or any part thereof, whether
37 owned or rented, which is occupied as a residence by the household and
38 so much of the land surrounding it, as defined as a home site for ad
39 valorem tax purposes, and may consist of a part of a multi-dwelling or
40 multi-purpose building and a part of the land upon which it is built or a
41 manufactured home or mobile home and the land upon which it is situ-
42 ated. "Owned" includes a vendee in possession under a land contract, a
43 life tenant, a beneficiary under a trust and one or more joint tenants or

1 tenants in common.

2 (e) "Claimant" means a person who has filed a claim under the pro-
3 visions of this act and was, during the entire calendar year preceding the
4 year in which such claim was filed for refund under this act, except as
5 provided in K.S.A. 79-4503, and amendments thereto, both domiciled in
6 this state and was: (1) A person having a disability; (2) a person who is 55
7 years of age or older ~~or~~; (3) a person other than a person included under
8 *subsection (e)(1) or (2)* having one or more dependent children under 18
9 years of age residing at the person's homestead during the calendar year
10 immediately preceding the year in which a claim is filed under this act;
11 *or (4) a person who occupies a homestead which has been owned by the*
12 *family of such person for 100 or more years.*

13 When a homestead is occupied by two or more individuals and more
14 than one of the individuals is able to qualify as a claimant, the individuals
15 may determine between them as to whom the claimant will be. If they
16 are unable to agree, the matter shall be referred to the secretary of rev-
17 enue whose decision shall be final.

18 (f) "Property taxes accrued" means property taxes, exclusive of special
19 assessments, delinquent interest and charges for service, levied on a
20 claimant's homestead in 1979 or any calendar year thereafter by the state
21 of Kansas and the political and taxing subdivisions of the state. When a
22 homestead is owned by two or more persons or entities as joint tenants
23 or tenants in common and one or more of the persons or entities is not
24 a member of claimant's household, "property taxes accrued" is that part
25 of property taxes levied on the homestead that reflects the ownership
26 percentage of the claimant's household. For purposes of this act, property
27 taxes are "levied" when the tax roll is delivered to the local treasurer with
28 the treasurer's warrant for collection. When a claimant and household
29 own their homestead part of a calendar year, "property taxes accrued"
30 means only taxes levied on the homestead when both owned and occupied
31 as a homestead by the claimant's household at the time of the levy, mul-
32 tiplied by the percentage of 12 months that the property was owned and
33 occupied by the household as its homestead in the year. When a house-
34 hold owns and occupies two or more different homesteads in the same
35 calendar year, property taxes accrued shall be the sum of the taxes allo-
36 cable to those several properties while occupied by the household as its
37 homestead during the year. Whenever a homestead is an integral part of
38 a larger unit such as a multi-purpose or multi-dwelling building, property
39 taxes accrued shall be that percentage of the total property taxes accrued
40 as the value of the homestead is of the total value. For the purpose of
41 this act, the word "unit" refers to that parcel of property covered by a
42 single tax statement of which the homestead is a part.

43 (g) "Disability" means:

- 1 (1) Inability to engage in any substantial gainful activity by reason of
2 any medically determinable physical or mental impairment which can be
3 expected to result in death or has lasted or can be expected to last for a
4 continuous period of not less than 12 months, and an individual shall be
5 determined to be under a disability only if the physical or mental im-
6 pairment or impairments are of such severity that the individual is not
7 only unable to do the individual's previous work but cannot, considering
8 age, education and work experience, engage in any other kind of sub-
9 substantial gainful work which exists in the national economy, regardless of
10 whether such work exists in the immediate area in which the individual
11 lives or whether a specific job vacancy exists for the individual, or whether
12 the individual would be hired if application was made for work. For pur-
13 poses of the preceding sentence (with respect to any individual), "work
14 which exists in the national economy" means work which exists in signif-
15 icant numbers either in the region where the individual lives or in several
16 regions of the country; for purposes of this subsection, a "physical or
17 mental impairment" is an impairment that results from anatomical, phys-
18 iological or psychological abnormalities which are demonstrable by med-
19 ically acceptable clinical and laboratory diagnostic techniques; or
20 (2) blindness and inability by reason of blindness to engage in sub-
21 substantial gainful activity requiring skills or abilities comparable to those of
22 any gainful activity in which the individual has previously engaged with
23 some regularity and over a substantial period of time.
24 (h) "Blindness" means central visual acuity of $\frac{20}{200}$ or less in the bet-
25 ter eye with the use of a correcting lens. An eye which is accompanied
26 by a limitation in the fields of vision such that the widest diameter of the
27 visual field subtends an angle no greater than 20 degrees shall be consid-
28 ered for the purpose of this paragraph as having a central visual acuity of
29 $\frac{20}{200}$ or less.
30 (i) "Rent constituting property taxes accrued" means 20% of the gross
31 rent actually paid in cash or its equivalent in 1979 or any taxable year
32 thereafter by a claimant and claimant's household solely for the right of
33 occupancy of a Kansas homestead on which ad valorem property taxes
34 were levied in full for that year. When a household occupies two or more
35 different homesteads in the same calendar year, rent constituting prop-
36 erty taxes accrued shall be computed by adding the rent constituting
37 property taxes accrued for each property rented by the household while
38 occupied by the household as its homestead during the year.
39 (j) "Gross rent" means the rental paid at arm's length solely for the
40 right of occupancy of a homestead or space rental paid to a landlord for
41 the parking of a mobile home, exclusive of charges for any utilities, serv-
42 ices, furniture and furnishings or personal property appliances furnished
43 by the landlord as a part of the rental agreement, whether or not expressly

1 set out in the rental agreement. Whenever the director of taxation finds
2 that the landlord and tenant have not dealt with each other at arms length
3 and that the gross rent charge was excessive, the director may adjust the
4 gross rent to a reasonable amount for the purposes of the claim.

5 Sec. 2. K.S.A. 2005 Supp. 79-4502 is hereby repealed.

6 Sec. 3. This act shall take effect and be in force from and after its
7 publication in the statute book.