

SENATE BILL No. 197

By Senators Pilcher-Cook, Brownlee, Huelskamp, Masterson, Petersen
and Wagle

2-4

10 AN ACT concerning property taxation; relating to valuation and assess-
11 ment; amending K.S.A. 79-411, 79-501, 79-5a04 and 79-1439a and
12 K.S.A. 2008 Supp. 79-412, 79-1439, 79-1448 and 79-1606 and repeal-
13 ing the existing sections.

14

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

16 New Section 1. For the purposes of this act: (a) The term “baseline
17 value” means the then appraised value of a piece of taxable property as
18 of January 1, 2010, or, as of the date the property initially appears on the
19 tax rolls, whichever occurs last.

20 (b) The term “taxable property” means all property defined as class
21 1 property by article XI, section 1, of the Kansas Constitution, except for
22 property which would be properly classified under subclass 2 of class 1
23 in article XI, section 1, of the Kansas Constitution.

24 (c) The term “adjusted baseline value” means the baseline value of a
25 piece of taxable property, compounded annually by 2%.

26 New Sec. 2. (a) For the purposes of subsection (a) of article XI, sec-
27 tion 1, of the Kansas Constitution, the term “value” means the adjusted
28 baseline value of the taxable property.

29 (b) Whenever there is a change in ownership of a piece of taxable
30 property, the property shall retain the then current adjusted baseline
31 value. No reappraisal of property allowed by K.S.A. 79-1413a, and amend-
32 ments thereto, shall be permitted due solely to a change in ownership.

33 New Sec. 3. (a) Improvements to property shall be valued by taking
34 all like zoned improvements within a radius of the subject property meas-
35 uring 200 feet inside city limits and a radius measuring 1,000 feet outside
36 such limits and determining an average baseline or adjusted baseline value
37 per square foot. That average square foot value shall then be applied to
38 the improvement to assess a new baseline value. If the improvement is
39 the result of redevelopment of one or more parcels of land, any actual
40 and reasonable expenses incurred by the property owner to demolish any
41 former improvement or improvements located on the parcel or parcels,
42 shall be subtracted from the baseline value of the new improvement.

43 (b) In the case of real property which has been rezoned, all like zoned

1 real property within a radius of the subject property measuring 200 feet
2 inside city limits and a radius measuring 1,000 feet outside such limits
3 shall be taken and an average baseline or adjusted baseline value per
4 square foot shall be determined. That average square foot value shall then
5 be applied to the subject property to assess a new baseline value.

6 (c) Should no like zoned improvements or properties be found within
7 the limits described in subsections (a) and (b) of this section, the average
8 square foot value to be applied shall be that of the average of the 10
9 nearest like zoned improvements or properties, as the case may be, within
10 the state of Kansas, regardless of distance.

11 Sec. 4. K.S.A. 79-411 is hereby amended to read as follows: 79-411.
12 *Unless otherwise specifically provided by this act*, the appraiser from ac-
13 tual view and inspection or from statistical methods prescribed by the
14 director of property valuation, from consultation with the owner or agent
15 thereof if expedient and from such other sources of information as are
16 within the appraiser's reach, shall determine as nearly as is practicable
17 the fair market value in money of all taxable real property within the
18 county and assess the same as required in K.S.A. 79-1439, and amend-
19 ments thereto.

20 Sec. 5. K.S.A. 2008 Supp. 79-412 is hereby amended to read as fol-
21 lows: 79-412. It shall be the duty of the county or district appraiser to
22 value the land and improvements. The value of the land and improve-
23 ments shall be entered on the assessment roll ~~in a single aggregate, except~~
24 ~~as hereinafter provided~~ *separately, unless otherwise specifically provided.*
25 Improvements owned by entities other than the owner of the land shall
26 be assessed to the owners of such improvements, if the lease agreement
27 has been recorded or filed in the office of the register of deeds. The
28 words "building on leased ground" shall appear on the first page of the
29 lease agreement. It shall be the responsibility of the person recording or
30 filing the lease agreement to include such words as provided in this sec-
31 tion. Failure to include such words as provided in this section may result
32 in such improvements being assessed to the owner of the land. As used
33 in this section, the term "person" means any individual, business, do-
34 mestic or foreign corporation, partnership or association. Delinquent
35 taxes imposed on such improvements may be collected by levy and sale
36 of the interests of such owners the same as in cases of the collection of
37 taxes on personal property.

38 Sec. 6. K.S.A. 79-501 is hereby amended to read as follows: 79-501.
39 *Unless otherwise specifically provided by this act*, each parcel of real
40 property shall be appraised at its fair market value in money, the value
41 thereof to be determined by the appraiser from actual view and inspection
42 of the property. The price at which such real property would sell at forced
43 sale may be taken as a criterion of such fair market value in money in the

1 market place of such sale if the appraiser believes such price to be a
2 reasonable factor in arriving at fair market value. The price at which real
3 property would sell at auction may be taken as the criterion of fair market
4 value in money if the appraiser determines such sale to be an arms-length
5 transaction between a willing buyer and seller. In addition, land devoted
6 to agricultural use shall be valued as provided by K.S.A. 79-1476, and
7 amendments thereto. Tangible personal property shall be appraised at its
8 fair market value in money except as provided by K.S.A. 79-1439, and
9 amendments thereto. All such real and tangible personal property shall
10 be assessed at the rate prescribed by K.S.A. 79-1439, and amendments
11 thereto.

12 Sec. 7. K.S.A. 79-5a04 is hereby amended to read as follows: 79-
13 5a04. The director of property valuation shall annually determine the fair
14 market value of public utility *personal* property, ~~both real and personal,~~
15 tangible and intangible, of every public utility as defined in subsection (a)
16 of K.S.A. 79-5a01 and amendments thereto.

17 As used in this section, "fair market value" means the amount in terms
18 of money that a well informed buyer is justified in paying and a well
19 informed seller is justified in accepting for property in an open and com-
20 petitive market, assuming that the parties are acting without undue com-
21 pulsion. For the purposes of this definition, it shall be assumed that con-
22 summation of a sale occurs as of January 1.

23 The division of property valuation in determining the fair market value
24 of public utility property shall, where practicable, determine the unit val-
25 uation, allocated to Kansas, and in doing so shall use generally accepted
26 appraisal procedures developed through the appraisal process and may
27 consider, including but not by way of exclusion, the following factors:

- 28 (a) Original cost.
- 29 (b) Original cost less depreciation or reproduction cost less depreci-
30 ation, or both, or replacement cost new less depreciation, except that
31 where either method is used proper allowance and deduction shall be
32 made for functional or economic obsolescence and for operation of non-
33 profitable facilities which necessitate regulatory body approval to
34 eliminate.
- 35 (c) The market or actual value of all outstanding capital stock and
36 debt.
- 37 (d) The utility operating income, capitalized in the manner and at
38 such rate or rates as shall be just and reasonable.
- 39 (e) Such other information or evidence as to value as may be obtained
40 that will enable the property valuation department to determine the fair
41 market value of the property of such public utility.

42 The fair market value of affiliated properties separately assessed, or the
43 nonoperating properties of such companies, or both, shall be ascertained

1 and determined as nearly as possible and deducted from the total unit
2 value of the properties of such companies if such properties are included
3 in the unit value. Except for the property of any entity enumerated in
4 subsection (b) of K.S.A. 79-5a01 and amendments thereto, and insofar as
5 it is practicable to do so, the same method of evaluating the properties
6 of the companies separately assessed or nonoperating properties, or both,
7 shall be used as was used in determining the unit value of such companies.
8 All property of any entity enumerated in subsection (b) of K.S.A. 79-5a01
9 and amendments thereto, shall be valued by the county or district ap-
10 praiser in the same manner as provided by law for the valuation of the
11 same type or class of property in the county.

12 Sec. 8. K.S.A. 2008 Supp. 79-1439 is hereby amended to read as
13 follows: 79-1439. (a) All real and tangible personal property which is sub-
14 ject to general ad valorem taxation shall be appraised uniformly and
15 equally as to class and, unless otherwise specified herein, shall be ap-
16 praised at its fair market value, as defined in K.S.A. 79-503a, and amend-
17 ments thereto.

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

20 (1) *The following* real property shall be assessed as to subclass at the
21 following percentages of *adjusted baseline* value:

22 (A) Real property used for residential purposes including multi-fam-
23 ily residential real property, real property necessary to accommodate a
24 residential community of mobile or manufactured homes including the
25 real property upon which such homes are located, residential real prop-
26 erty used partially for day care home purposes if such home has been
27 registered or licensed pursuant to K.S.A. 65-501 et seq., and amendments
28 thereto, and residential real property used partially for bed and breakfast
29 home purposes at 11.5%. As used in this paragraph "bed and breakfast
30 home" means a residence with five or fewer bedrooms available for over-
31 night guests who stay for not more than 28 consecutive days for which
32 there is compliance with all zoning or other applicable ordinances or laws
33 which pertain to facilities which lodge and feed guests;

34 ~~(B) land devoted to agricultural use valued pursuant to K.S.A. 79-~~
35 ~~1476, and amendments thereto, at 30%;~~

36 ~~(C)~~ (B) vacant lots at 12%;

37 ~~(D)~~ (C) real property which is owned and operated by a not-for-profit
38 organization not subject to federal income taxation pursuant to section
39 501 of the federal internal revenue code and included herein pursuant to
40 K.S.A. 79-1439a, and amendments thereto, at 12%;

41 ~~(E)~~ (D) public utility real property, except railroad property which
42 shall be assessed at the average rate all other commercial and industrial
43 property is assessed, at 33%. As used in this paragraph, "public utility"

1 shall have the meaning ascribed thereto by K.S.A. 79-5a01, and amend-
2 ments thereto;

3 ~~(F)~~ (E) real property used for commercial and industrial purposes
4 and buildings and other improvements located upon land devoted to ag-
5 ricultural use at 25%; and

6 ~~(G)~~ (F) all other urban and rural real property not otherwise specif-
7 ically subclassed at 30%.

8 (2) *Land devoted to agricultural use valued pursuant to K.S.A. 79-
9 1476, and amendments thereto, shall be assessed at 30% of its value.*

10 ~~(2)~~ (3) Personal property shall be classified into the following classes
11 and assessed at the percentage of value prescribed therefor:

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

13 (B) mineral leasehold interests, except oil leasehold interests the av-
14 erage daily production from which is five barrels or less, and natural gas
15 leasehold interests, the average daily production from which is 100 mcf
16 or less, which shall be assessed at 25%, at 30%;

17 (C) public utility tangible personal property including inventories
18 thereof, except railroad personal property including inventories thereof,
19 which shall be assessed at the average rate all other commercial and in-
20 dustrial property is assessed, at 33%. As used in this paragraph, "public
21 utility" shall have the meaning ascribed thereto by K.S.A. 79-5a01, and
22 amendments thereto;

23 (D) all categories of motor vehicles listed and taxed pursuant to
24 K.S.A. 79-306d, and amendments thereto, and over-the-road motor ve-
25 hicles defined pursuant to K.S.A. 79-6a01, and amendments thereto, at
26 30%;

27 (E) commercial and industrial machinery and equipment, including
28 rolling equipment defined pursuant to K.S.A. 79-6a01, and amendments
29 thereto, which, if its economic life is seven years or more, shall be valued
30 at its retail cost when new less seven-year straight-line depreciation, or
31 which, if its economic life is less than seven years, shall be valued at its
32 retail cost when new less straight-line depreciation over its economic life,
33 except that, the value so obtained for such property as long as it is being
34 used shall not be less than 20% of the retail cost when new of such
35 property at 25%; and

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

38 Sec. 9. K.S.A. 79-1439a is hereby amended to read as follows: 79-
39 1439a. (a) In accordance with and for the purposes of section 1 of article
40 11 of the Kansas constitution, real property, to the extent herein specified,
41 which is owned and operated by a not-for-profit organization not subject
42 to federal income taxation pursuant to paragraphs (2), (3), (4), (7), (8) or
43 (10) of subsection (c) of section 501 of the federal internal revenue code,

1 as in effect on January 1, 1994, is hereby included in subclass (4) of class
2 1 for property tax classification purposes, and shall be assessed at the rate
3 of 12% of its ~~fair-market~~ *adjusted baseline* value. With respect to real
4 property owned and operated by a not-for-profit organization not subject
5 to federal income taxation pursuant to paragraph (2) of subsection (c) of
6 section 501 of such code, this section shall only apply to real property
7 leased to a not-for-profit organization not subject to federal income tax-
8 ation pursuant to paragraph (8) of subsection (c) of section 501 of such
9 code. With respect to real property owned and operated by a not-for-
10 profit organization not subject to federal income taxation pursuant to
11 paragraph (7) of subsection (c) of section 501 of such code, this section
12 shall only apply to land which is actually and regularly used for recrea-
13 tional purposes, other than land accommodating buildings or other im-
14 provements associated with such recreational land. Nothing in this sub-
15 section shall be deemed to affect the exemption of property by law or the
16 Kansas constitution.

17 (b) The provisions of this section shall apply to all taxable years com-
18 mencing after December 31, ~~1993~~ 2008.

19 Sec. 10. K.S.A. 2008 Supp. 79-1448 is hereby amended to read as
20 follows: 79-1448. Any taxpayer may complain or appeal to the ~~county~~
21 ~~appraiser hearing officer or panel appointed pursuant to K.S.A. 79-1611,~~
22 ~~and amendments thereto,~~ from the classification or appraisal of the tax-
23 payer's property by giving notice to the ~~county appraiser hearing officer~~
24 ~~or panel~~ within 30 days subsequent to the date of mailing of the valuation
25 notice required by K.S.A. 79-1460, and amendments thereto, for real
26 property, and on or before May 15 for personal property. ~~The county~~
27 ~~appraiser or the appraiser's designee shall arrange to hold an informal~~
28 ~~meeting with the aggrieved taxpayer with reference to the property in~~
29 ~~question. At such meeting it shall be the duty of the county appraiser or~~
30 ~~the county appraiser's designee to initiate production of evidence to sub-~~
31 ~~stantiate the valuation of such property, including the affording to the~~
32 ~~taxpayer of the opportunity to review the data sheet of comparable sales~~
33 ~~utilized in the determination of such valuation. The county appraiser~~
34 ~~hearing officer or panel may extend the time in which the taxpayer may~~
35 ~~informally~~ appeal from the classification or appraisal of the taxpayer's
36 property for just and adequate reasons. ~~Except as provided in K.S.A. 79-~~
37 ~~1404, and amendments thereto, no informal meeting regarding real prop-~~
38 ~~erty shall be scheduled to take place after May 15, nor shall a final de-~~
39 ~~termination be given by the appraiser after May 20. Any final~~
40 determination shall be accompanied by a written explanation of the reason-
41 ing upon which such determination is based when such determination
42 is not in favor of the taxpayer. ~~Any taxpayer who is aggrieved by the final~~
43 ~~determination of the county appraiser may appeal to the hearing officer~~

1 ~~or panel appointed pursuant to K.S.A. 79-1611, and amendments thereto,~~
2 ~~and such hearing officer, or panel, for just cause shown and recorded,~~
3 *Upon a showing by the property owner, by clear and convincing evidence,*
4 *that the property's fair market value is lower than the property's baseline*
5 *or adjusted value, the hearing officer or panel is authorized to change the*
6 *classification or valuation of specific tracts or individual items of real or*
7 *personal property in the same manner provided for in K.S.A. 79-1606,*
8 *and amendments thereto. In lieu of appealing to a hearing officer or panel*
9 *appointed pursuant to K.S.A. 79-1611, and amendments thereto, any tax-*
10 *payer aggrieved by the final determination of the county appraiser, except*
11 *with regard to land devoted to agricultural use, wherein the value of the*
12 *property, is less than \$2,000,000, as reflected on the valuation notice, or*
13 *the property constitutes single family residential property, may appeal to*
14 *the small claims and expedited hearings division of the state court of tax*
15 *appeals within the time period prescribed by K.S.A. 79-1606, and amend-*
16 *ments thereto. Any taxpayer who is aggrieved by the final determination*
17 *of a hearing officer or panel may appeal to the state court of tax appeals*
18 *as provided in K.S.A. 79-1609, and amendments thereto. An informal*
19 ~~meeting with the county appraiser or the appraiser's designee shall be a~~
20 ~~condition precedent to an appeal to the county or district hearing panel.~~

21 Sec. 11. K.S.A. 2008 Supp. 79-1606 is hereby amended to read as
22 follows: 79-1606. (a) ~~The county or district appraiser,~~ hearing officer or
23 panel and arbitrator shall adopt, use and maintain the following records,
24 the form and method of use of which shall be prescribed by the director
25 of property valuation: (1) Appeal form, (2) hearing docket, and (3) record
26 of cases, including the disposition thereof.

27 (b) The county clerk shall furnish appeal forms to any taxpayer who
28 desires to appeal ~~the final determination of the county or district appraiser~~
29 ~~as provided in K.S.A. 79-1448 to the hearing officer or panel as provided~~
30 ~~in section 10, and amendments thereto. Any such appeal shall be in writ-~~
31 ~~ing and filed with the county clerk within 18 days of the date that the~~
32 ~~final determination of the appraiser was mailed to the taxpayer within the~~
33 ~~time limits prescribed by section 10, and amendments thereto.~~

34 (c) The hearing officer or panel shall hear and determine any appeal
35 made by any taxpayer or such taxpayer's agent or attorney. All such hear-
36 ings shall be held in a suitable place in the county or district. Sufficient
37 evening and Saturday hearings shall be provided as shall be necessary to
38 hear all parties making requests for hearings at such times.

39 (d) Every appeal so filed shall be set for hearing by the hearing officer
40 or panel, which hearing shall be held on or before July 1, and the hearing
41 officer or panel shall have no authority to be in session thereafter, except
42 as provided in K.S.A. 79-1404, and amendments thereto. The county clerk
43 shall notify each appellant and the county or district appraiser of the date

1 for hearing of the taxpayer's appeal at least 10 days in advance of such
2 hearing. It shall be the duty of the county or district appraiser to initiate
3 the production of evidence to demonstrate, by a preponderance of the
4 evidence, the validity and correctness of the classification or appraisal of
5 residential property or real property used for commercial and industrial
6 purposes, except that no such duty shall accrue with regard to leased
7 commercial and industrial property unless the property owner has fur-
8 nished to the county or district appraiser a complete income and expense
9 statement for the property for the three years next proceeding [preced-
10 ing] the year of appeal. No presumption shall exist in favor of the county
11 or district appraiser with respect to the validity or correctness of any such
12 classification or valuation. Every such appeal shall be determined by order
13 of the hearing officer or panel which shall be accompanied by a written
14 explanation of the reasoning upon which such order is based. Such order
15 shall be recorded in the minutes of such hearing officer or panel on or
16 before July 5. Such recorded orders and minutes shall be open to public
17 inspection. Notice as to disposition of the appeal shall be mailed by the
18 county clerk to the taxpayer and the county or district appraiser within
19 five days after the determination.

20 Sec. 12. K.S.A. 79-411, 79-501, 79-5a04 and 79-1439a and K.S.A.
21 2008 Supp. 79-412, 79-1439, 79-1448 and 79-1606 are hereby repealed.

22 Sec. 13. This act shall take effect and be in force from and after its
23 publication in the statute book.