

HOUSE BILL No. 2734

By Committee on Taxation

3-9

9 AN ACT concerning taxation; relating to tax clearance program, proce-
10 dure; requirements of secretary of revenue.

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

13 Section 1. (a) The secretary of revenue shall establish a tax clearance
14 process as provided pursuant to subsection (e), to ensure that each indi-
15 vidual specified in this act is current and compliant with all tax laws of
16 the state of Kansas. An individual is considered current and compliant
17 pursuant to this act when such individual has made payment on such
18 individual's tax liability on or before the due date for such payment and
19 filed such individual's tax return on or before the due date for filing such
20 return as established by law. The provisions of this act shall not apply to
21 an individual whose tax liability which is under audit, administrative ap-
22 peal, the subject of a pending court case or bankruptcy proceeding or for
23 which an agreement for the payment of such taxes has been entered into
24 by the individual and the secretary of revenue, and the individual is cur-
25 rent in the payments required under such payment agreement. Such pro-
26 cess shall include a procedure whereby data necessary to obtain a tax
27 clearance certificate is submitted to the department of revenue, the de-
28 partment responds within the time period requirements provided in this
29 act, and adequate safeguards to ensure that all tax information is strictly
30 confidential as provided pursuant to law and only the taxpayer receives
31 the specific tax information that provides the basis for the tax clearance
32 certificate issuance or nonissuance.

33 (b) Any individual specified in this act shall obtain a tax clearance
34 certificate prior to employment, appointment or filing for elective office,
35 filing certain reports, receiving certain tax incentives, obtaining state
36 grants and loans, and procurement or state contract bidding. Any such
37 individual shall be provided notice of and the opportunity to resolve any
38 tax liability issues that prevent the issuance of a tax clearance certificate
39 to such individual.

40 (c) In addition to any other provision of law, in the following circum-
41 stances, a tax clearance certificate is required by an individual as a part
42 of the application, registration, or filing process, as enumerated herein,
43 and as specifically provided, required prior to the award or grant of any

1 such privilege:

- 2 (1) Filing of articles of incorporation or consent to dissolution or
3 other registration or closing of a business entity required to be filed with
4 the secretary of state. The secretary of state shall not act on any such
5 filing unless such tax clearance certificate is submitted to the secretary;
- 6 (2) filing of annual report by a business entity with the secretary of
7 state as required pursuant to law;
- 8 (3) award of any state loan or grant provided by law. Notwithstanding
9 any provision of law providing for a state loan or grant, an individual shall
10 not be awarded any such state loan or grant without obtaining a tax clear-
11 ance certificate and submitting such certificate to the administrator of
12 such state loan or grant as part of the application process. If such indi-
13 vidual who has been awarded a state loan or grant no longer has a current
14 tax clearance certificate, such individual shall repay to the state or such
15 administrator the amount of any such state loan or grant received pur-
16 suant to law;
- 17 (4) issuance, renewal or reinstatement of any professional license,
18 certificate, permit, registration or document by a licensing body of the
19 state;
- 20 (5) issuance, renewal or reinstatement of any license under the liquor
21 control act;
- 22 (6) subject to the provisions of K.S.A. 75-4315d, and amendments
23 thereto, appointment to any judicial position, state office or board, com-
24 mission, council, committee, authority or other governmental body the
25 members of which are required by law to be appointed by an appointing
26 authority. No such individual may be appointed to such office or position
27 unless such person has submitted a tax clearance certificate to the ap-
28 pointing authority who is required by law to make the appointment to
29 the office or position;
- 30 (7) filing for election to any federal, state or local elective office or
31 position;
- 32 (8) application for employment with any state agency. Any individual
33 applying for employment with a state agency who does not obtain and
34 submit a tax clearance certificate as a part of the application or hiring
35 process may be hired by the state agency on a provisional or probational
36 basis under which the individual obtains and submits to the state agency
37 a tax clearance certificate within a certain time period prescribed by the
38 state agency;
- 39 (9) application for employment with any state or local agency or entity
40 which provides police, fire or emergency services or is a unified school
41 district. Any individual applying for such employment with any such state
42 or local agency or entity who does not obtain and submit a tax clearance
43 certificate as part of the application or hiring process may be hired by the

1 state or local agency or entity on a provisional or probational basis under
2 which the individual obtains and submits to the state or local agency or
3 entity a tax clearance certificate within a certain time period prescribed
4 by the state or local agency or entity; and

5 (10) bidding and procurement activities involving the letting of con-
6 tracts with individuals or businesses to provide services and goods to any
7 state or local agency or entity. No individual or business shall submit a
8 bid to provide such services unless such individual or business has ob-
9 tained and submitted a tax clearance certificate to such state or local
10 agency or entity as a part of the bidding or procurement application
11 process.

12 (d) Notwithstanding any provision of law providing for a tax incentive,
13 a taxpayer who is not current and compliant with all tax laws of the state
14 of Kansas shall not be eligible to receive any tax incentive. If a taxpayer
15 who has been granted a tax incentive is no longer current and compliant
16 with all tax laws of the state of Kansas as required in this act after the
17 award of such tax incentive, such taxpayer shall repay to the state the
18 amount of any such tax incentive received pursuant to law. Tax incentive
19 includes any income, privilege or premium tax exemption or credit, or
20 economic development incentive program involving the retention of with-
21 holding taxes.

22 (e) The secretary shall establish a tax clearance process whereby a
23 taxpayer may apply to the department electronically for a tax clearance
24 certificate. Upon receipt of a request for a tax clearance certificate from
25 any taxpayer, if such taxpayer is not delinquent in the payment of taxes
26 or the filing of returns, the secretary shall issue, electronically, such cer-
27 tificate of tax clearance within 48 hours to the taxpayer. Within 30 days
28 after a taxpayer has applied electronically to the department for a tax
29 clearance certificate as part of the taxpayer's application for issuance,
30 renewal or reinstatement of a professional license, certificate, permit,
31 registration or document by a licensing body of the state and has not
32 received such certificate from the department, such taxpayer may request
33 an informal conference with the secretary or the secretary's designee
34 relating to the taxpayer's failure to receive a tax clearance certificate by
35 filing a written request with the secretary or secretary's designee setting
36 forth all reasons why such delinquency is contended to be incorrect. The
37 purpose of such conference shall be to review and reconsider the facts
38 and issues concerning the taxpayer's tax delinquency, but any final tax
39 liability for which appeal rights have previously expired or been exhausted
40 shall not be reviewable. The secretary of revenue or the secretary's de-
41 signee shall hold an informal conference with the licensee and shall issue
42 a written final determination thereon within 30 days after receipt of the
43 request for an informal conference from the taxpayer. The informal con-

1 ference shall not constitute an adjudicative proceeding under the Kansas
2 administrative procedure act and shall be conducted in accordance with
3 the procedures set forth in K.S.A. 79-3226, and amendments thereto.
4 The written final determination shall be subject to appeal to the board of
5 tax appeals, pursuant to K.S.A. 74-2438, and amendments thereto.

6 (f) Notwithstanding any provision of law prohibiting disclosure by the
7 secretary of the contents of taxpayer records or information and notwith-
8 standing any confidentiality statute of any state agency or licensing body,
9 all information exchanged among or disclosed by the secretary, the li-
10 censing body, state or local agency or entity and the taxpayer necessary
11 to accomplish and effectuate the intent of this act is lawful. The infor-
12 mation obtained by a licensing body, state or local agency or entity from
13 the department of revenue as authorized by this act shall be used only
14 for the purpose authorized by this act. Any person employed by, or for-
15 merly employed by, a licensing body, state or local agency or entity, and
16 who receives such information shall be subject to the provisions of K.S.A.
17 79-3234, and amendments thereto, or K.S.A. 79-3614, and amendments
18 thereto, as applicable, with respect to any confidential taxpayer infor-
19 mation, and shall be subject to the same duty of confidentiality with re-
20 spect to such confidential information imposed by law on officers and
21 employees of the department of revenue and shall be subject to any civil
22 or criminal penalties imposed by law for violations of such duty of
23 confidentiality.

24 (g) Any agency or licensing body responsible for receiving a tax clear-
25 ance certificate under the provisions of this act shall submit to the sec-
26 retary of revenue on an annual basis a report which summarizes all tax
27 clearance submittances involving such agency or licensing body during
28 the previous year.

29 (h) The secretary of revenue shall submit to the legislature on an
30 annual basis a report which summarizes all actions of the secretary related
31 to responsibilities of the secretary required pursuant to the provisions of
32 this act.

33 (i) The provisions of this act shall expire on June 30, 2013.

34 (j) The secretary of revenue may adopt all rules and regulations nec-
35 essary to carry out the provisions of this act.

36 Sec. 2. This act shall take effect and be in force from and after its
37 publication in the statute book.