

HOUSE BILL No. 2406

By Committee on Taxation

Requested by Representative A. Smith

3-11

AN ACT concerning property taxation; relating to exemptions; providing tax exemption eligibility for commercial and industrial machinery and equipment that is currently ineligible for tax exemption due to such property being acquired or transported into this state on or before June 30, 2006; amending K.S.A. 79-223 and repealing the existing section.

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

Section 1. K.S.A. 79-223 is hereby amended to read as follows: 79-223. (a) It is the purpose of this section to promote, stimulate, foster and encourage new investments in commercial and industrial machinery and equipment in the state of Kansas, ~~to~~ contribute to the economic recovery of the state, ~~to~~ enhance business opportunities in the state, ~~to~~ encourage the location of new businesses and industries in the state as well as the retention and expansion of existing businesses and industries and ~~to~~ promote the economic stability of the state by maintaining and providing employment opportunities, thereby contributing to the general welfare of the citizens of the state, by exempting from property taxation all newly purchased or leased commercial and industrial machinery and equipment, including machinery and equipment transferred into this state for the purpose of expanding an existing business or for the creation of a new business.

(b) The following described property, to the extent specified by this section, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

First. Commercial and industrial machinery and equipment acquired by qualified purchase or lease ~~made or entered into after June 30, 2006~~, as the result of a bona fide transaction not consummated for the purpose of avoiding taxation.

Second. Commercial and industrial machinery and equipment transported into this state ~~after June 30, 2006~~, for the purpose of expanding an existing business or creation of a new business.

(c) Any purchase, lease or transportation of commercial and industrial machinery and equipment consummated for the purpose of avoiding taxation shall subject the property to the penalty provisions of K.S.A. 79-1422 and 79-1427a, and amendments thereto. The county appraiser shall

1 not reclassify any property that is properly classified for property tax
2 purposes within subclass (5) of class 2 of section 1 of article 11 of the
3 constitution of the state of Kansas.

4 (d) As used in this section:

5 (1) "Acquired"—~~shall~~ *does* not include the transfer of property
6 pursuant to an exchange for stock securities; or the transfer of assets from
7 one going concern to another due to a merger, reorganization or other
8 consolidation;

9 (2) "commercial and industrial machinery and equipment" means
10 property classified for property tax purposes within subclass (5) of class 2
11 of section 1 of article 11 of the constitution of the state of Kansas, ~~but~~
12 ~~shall~~. "*Commercial and industrial machinery and equipment*" *does* not
13 include any electric generation facility or addition to an electric generation
14 facility that is used ~~predominately~~ *predominantly* to produce and generate
15 electricity utilizing renewable energy resources or technologies as defined
16 in K.S.A. 79-201, and amendments thereto;

17 (3) "qualified lease" means a lease of commercial and industrial
18 machinery and equipment for not less than 30 days for fair and valuable
19 consideration where such machinery and equipment is physically
20 transferred to the lessee to be used in the lessee's business or trade; and

21 (4) "qualified purchase" means a purchase of commercial and
22 industrial machinery and equipment for fair and valuable consideration
23 where such machinery and equipment is physically transferred to the
24 purchaser to be used in the purchaser's business or trade.

25 (e) The secretary of revenue is hereby authorized to adopt rules and
26 regulations to administer the provisions of this section.

27 Sec. 2. K.S.A. 79-223 is hereby repealed.

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