

HOUSE BILL No. 2621

By Committee on Taxation

Requested by Representative Hoheisel on behalf of Wichita Affordable Housing

2-2

1 AN ACT concerning property taxation; relating to exemptions; providing a
2 property tax exemption for real property owned by certain not-for-
3 profit organizations and used to provide affordable housing; amending
4 K.S.A. 79-201 and repealing the existing section.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 79-201 is hereby amended to read as follows: 79-
8 201. The following described property, to the extent herein specified, shall
9 be and is hereby exempt from all property or ad valorem taxes levied
10 under the laws of the state of Kansas:

11 *First.* All buildings used exclusively as places of public worship and all
12 buildings used exclusively by school districts and school district interlocal
13 cooperatives organized under the laws of this state, with the furniture and
14 books therein contained and used exclusively for the accommodation of
15 religious meetings or for school district or school district interlocal
16 cooperative purposes, whichever is applicable, together with the grounds
17 owned thereby if not leased or otherwise used for the realization of profit,
18 except that: (a) (1) Any school building, or portion thereof, together with
19 the grounds upon which the building is located, shall be considered to be
20 used exclusively by the school district for the purposes of this section
21 when leased by the school district to any political or taxing subdivision of
22 the state, including a school district interlocal cooperative, or to any
23 association, organization or nonprofit corporation entitled to tax exemption
24 with respect to such property; and (2) any school building, together with
25 the grounds upon which the building is located, shall be considered to be
26 used exclusively by a school district interlocal cooperative for the
27 purposes of this section when being acquired pursuant to a lease-purchase
28 agreement; and (b) any building, or portion thereof, used as a place of
29 worship, together with the grounds upon which the building is located,
30 shall be considered to be used exclusively for the religious purposes of this
31 section when used as a not-for-profit day care center for children ~~which~~
32 *that* is licensed pursuant to K.S.A. 65-501 et seq., and amendments
33 thereto, or when used to house an area where the congregation of a church
34 society and others may purchase tracts, books and other items relating to
35 the promulgation of the church society's religious doctrines.

1 *Second.* All real property, and all tangible personal property, actually
2 and regularly used exclusively for literary, educational, scientific,
3 religious, benevolent or charitable purposes, including property used
4 exclusively for such purposes by more than one agency or organization for
5 one or more of such exempt purposes. Except with regard to real property
6 ~~which that~~ is owned by a religious organization, is to be used exclusively
7 for religious purposes and is not used for a nonexempt purpose prior to ~~its~~
8 *such property's* exclusive use for religious purposes, which property shall
9 be deemed to be actually and regularly used exclusively for religious
10 purposes for the purposes of this paragraph, this exemption shall not apply
11 to such property, not actually used or occupied for the purposes set forth
12 herein, nor to such property held or used as an investment even though the
13 income or rentals received therefrom is used wholly for such literary,
14 educational, scientific, religious, benevolent or charitable purposes. In the
15 event any such property ~~which that~~ has been exempted pursuant to the
16 preceding sentence is not used for religious purposes prior to ~~its such~~
17 *property's* conveyance ~~which that~~ results in its use for nonreligious
18 purposes, there shall be a recoupment of property taxes in an amount equal
19 to the tax ~~which that~~ would have been levied upon such property except
20 for such exemption for all taxable years for which such exemption was in
21 effect. Such recoupment tax shall become due and payable in such year as
22 provided by K.S.A. 79-2004, and amendments thereto. A lien for such
23 taxes shall attach to the real property subject to the same on November 1
24 in the year such taxes become due and all such taxes remaining due and
25 unpaid after the date prescribed for the payment thereof shall be collected
26 in the manner provided by law for the collection of delinquent taxes.
27 Moneys collected from the recoupment tax hereunder shall be credited by
28 the county treasurer to the several taxing subdivisions within which such
29 real property is located in the proportion that the total tangible property tax
30 levies made in the preceding year for each such taxing subdivision bear to
31 the total of all such levies made in that year by all such taxing
32 subdivisions. Such moneys shall be credited to the general fund of the
33 taxing subdivision or if such taxing subdivision is making no property tax
34 levy for the support of a general fund such moneys may be credited to any
35 other tangible property tax fund of general application of such subdivision.
36 This exemption shall not be deemed inapplicable to property ~~which that~~
37 would otherwise be exempt pursuant to this paragraph because an agency
38 or organization: (a) Is reimbursed for the provision of services
39 accomplishing the purposes enumerated in this paragraph based upon the
40 ability to pay by the recipient of such services; or (b) is reimbursed for the
41 actual expense of using such property for purposes enumerated in this
42 paragraph; or (c) uses such property for a nonexempt purpose ~~which that~~
43 is minimal in scope and insubstantial in nature if such use is incidental to the

1 exempt purposes of this paragraph; or (d) charges a reasonable fee for
2 admission to cultural or educational activities or permits the use of its
3 property for such activities by a related agency or organization, if any such
4 activity is in furtherance of the purposes of this paragraph; or (e) is
5 applying for an exemption pursuant to this paragraph for a motor vehicle
6 that is being leased for a period of at least one year.

7 *Third.* All moneys and credits belonging exclusively to universities,
8 colleges, academies or other public schools of any kind, or to religious,
9 literary, scientific or benevolent and charitable institutions or associations,
10 appropriated solely to sustain such institutions or associations, not
11 exceeding in amount or in income arising therefrom the limit prescribed by
12 the charter of such institution or association.

13 *Fourth.* The reserve or emergency funds of fraternal benefit societies
14 authorized to do business under the laws of the state of Kansas.

15 *Fifth.* All buildings of private nonprofit universities or colleges ~~which~~
16 *that* are owned and operated by such universities and colleges as student
17 union buildings, presidents' homes and student dormitories.

18 *Sixth.* All real and tangible personal property actually and regularly
19 used exclusively by the alumni association associated by its articles of
20 incorporation with any public or nonprofit Kansas college or university
21 approved by the Kansas board of regents to confer academic degrees or
22 with any community college approved by its board of trustees to grant
23 certificates of completion of courses or curriculum, to provide
24 accommodations and services to such college or university or to the
25 alumni, staff or faculty thereof.

26 *Seventh.* All parsonages owned by a church society and actually and
27 regularly occupied and used predominantly as a residence by a minister or
28 other clergyman of such church society who is actually and regularly
29 engaged in conducting the services and religious ministrations of such
30 society, and the land upon which such parsonage is located to the extent
31 necessary for the accommodation of such parsonage.

32 *Eighth.* All real property, all buildings located on such property and all
33 personal property contained therein, actually and regularly used
34 exclusively by any individually chartered organization of honorably
35 discharged military veterans of the United States armed forces or auxiliary
36 of any such organization, ~~which that~~ is exempt from federal income
37 taxation pursuant to section 501(c)(19) of the federal internal revenue code
38 of 1986, for clubhouse, place of meeting or memorial hall purposes, and
39 real property to the extent of not more than two acres, and all buildings
40 located on such property, actually and regularly used exclusively by any
41 such veterans' organization or its auxiliary as a memorial park.

42 *Ninth.* All real property and tangible personal property actually and
43 regularly used by a community service organization for the predominant

1 purpose of providing humanitarian services, ~~which~~ *that* is owned and
2 operated by a corporation organized not for profit under the laws of the
3 state of Kansas or by a corporation organized not for profit under the laws
4 of another state and duly admitted to engage in business in this state as a
5 foreign not-for-profit corporation if: (a) The directors of such corporation
6 serve without pay for such services; (b) the corporation is operated in a
7 manner ~~which~~ *that* does not result in the accrual of distributable profits,
8 realization of private gain resulting from the payment of compensation in
9 excess of a reasonable allowance for salary or other compensation for
10 services rendered or the realization of any other form of private gain; (c)
11 no officer, director or member of such corporation has any pecuniary
12 interest in the property for which exemption is claimed; (d) the corporation
13 is organized for the purpose of providing humanitarian services; (e) the
14 actual use of property for which an exemption is claimed ~~must~~ *shall* be
15 substantially and predominantly related to the purpose of providing
16 humanitarian services, except that, the use of such property for a
17 nonexempt purpose ~~which~~ *that* is minimal in scope and insubstantial in
18 nature shall not result in the loss of exemption if such use is incidental to
19 the purpose of providing humanitarian services by the corporation; (f) the
20 corporation is exempt from federal income taxation pursuant to section
21 501(c)(3) of the internal revenue code of 1986; and (g) contributions to the
22 corporation are deductible under the Kansas income tax act. As used in this
23 clause, "humanitarian services" means the conduct of activities ~~which~~ *that*
24 substantially and predominantly meet a demonstrated community need and
25 ~~which~~ improve the physical, mental, social, cultural or spiritual welfare of
26 others or the relief, comfort or assistance of persons in distress or any
27 combination thereof including, but not limited to, health and recreation
28 services, child care, individual and family counseling, employment and
29 training programs for handicapped persons and meals or feeding programs.
30 Notwithstanding any other provision of this clause, motor vehicles shall
31 not be exempt hereunder unless such vehicles are exclusively used for the
32 purposes described therein, except that the use of any such vehicle for the
33 purpose of participating in a coordinated transit district in accordance with
34 the provisions of K.S.A. 75-5032 through 75-5037, and amendments
35 thereto, or K.S.A. 75-5051 through 75-5058, and amendments thereto,
36 shall be deemed as exclusive use.

37 *Tenth.* For all taxable years commencing after December 31, 1986, any
38 building, and the land upon which such building is located to the extent
39 necessary for the accommodation of such building, owned by a church or
40 nonprofit religious society or order ~~which~~ *that* is exempt from federal
41 income taxation pursuant to section 501(c)(3) of the federal internal
42 revenue code of 1986, and actually and regularly occupied and used
43 exclusively for residential and religious purposes by a community of

1 persons who are bound by vows to a religious life and who conduct or
2 assist in the conduct of religious services and actually and regularly
3 engage in religious, benevolent, charitable or educational ministrations or
4 the performance of health care services.

5 *Eleventh.* For all taxable years commencing after December 31, 1998,
6 all property actually and regularly used predominantly to produce and
7 generate electricity utilizing renewable energy resources or technologies
8 when the applicant for such property, on or before December 31, 2016, has
9 filed an application for exemption pursuant to this subsection or has
10 received a conditional use permit to produce and generate electricity on the
11 property from the county in which the property is located. Any exemption
12 granted under the provisions of this subsection for such property when the
13 applicant, after December 31, 2016, has filed such application or filed such
14 application and received a conditional use permit, shall be in effect for the
15 10 taxable years immediately following the taxable year in which
16 construction or installation of such property is completed. For purposes of
17 this section, "renewable energy resources or technologies" shall include
18 wind, solar, photovoltaic, biomass, hydropower, geothermal and landfill
19 gas resources or technologies.

20 *Twelfth.* For all taxable years commencing after December 31, 2001, all
21 personal property actually and regularly used predominantly to collect,
22 refine or treat landfill gas or to transport landfill gas from a landfill to a
23 transmission pipeline, and the landfill gas produced therefrom.

24 ~~The provisions of this section, except as otherwise more specifically~~
25 ~~provided, shall apply to all taxable years commencing after December 31,~~
26 ~~2009.~~ *Thirteenth.* For all taxable years commencing after December 31,
27 2026, all real property used to provide affordable housing if such real
28 property is owned by a not-for-profit organization that is exempt from
29 federal income taxation pursuant to section 501(c)(3) of the federal
30 internal revenue code of 1986 and such organization is engaged in
31 providing affordable housing to individuals or families earning less than
32 or equal to 80% of the area median income, transitional housing or
33 emergency shelter housing.

34 Sec. 2. K.S.A. 79-201 is hereby repealed.

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