

HOUSE BILL No. 2001

By Representative Brunk

12-2

1 AN ACT concerning property taxation; relating to distribution of taxes
2 paid under protest; amending K.S.A. 2014 Supp. 79-2005 and repealing
3 the existing section.
4

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

6 Section 1. K.S.A. 2014 Supp. 79-2005 is hereby amended to read as
7 follows: 79-2005. (a) Any taxpayer, before protesting the payment of such
8 taxpayer's taxes, shall be required, either at the time of paying such taxes,
9 or, if the whole or part of the taxes are paid prior to December 20, no later
10 than December 20, or, with respect to taxes paid in whole or in part in an
11 amount equal to at least $\frac{1}{2}$ of such taxes on or before December 20 by an
12 escrow or tax service agent, no later than January 31 of the next year, to
13 file a written statement with the county treasurer, on forms approved by
14 the state board of tax appeals and provided by the county treasurer, clearly
15 stating the grounds on which the whole or any part of such taxes are
16 protested and citing any law, statute or facts on which such taxpayer relies
17 in protesting the whole or any part of such taxes. ~~When the grounds of~~
18 ~~such protest is an assessment of taxes made pursuant to K.S.A. 79-332a~~
19 ~~and 79-1427a, and amendments thereto~~ *a protest of an assessment of taxes*
20 *is made*, the county treasurer may not distribute the taxes paid under
21 protest until such time as the appeal is final. When the grounds of such
22 protest is that the valuation or assessment of the property upon which the
23 taxes are levied is illegal or void, the county treasurer shall forward a copy
24 of the written statement of protest to the county appraiser who shall within
25 15 days of the receipt thereof, schedule an informal meeting with the
26 taxpayer or such taxpayer's agent or attorney with reference to the property
27 in question. The county appraiser shall review the appraisal of the
28 taxpayer's property with the taxpayer or such taxpayer's agent or attorney
29 and may change the valuation of the taxpayer's property, if in the county
30 appraiser's opinion a change in the valuation of the taxpayer's property is
31 required to assure that the taxpayer's property is valued according to law,
32 and shall, within 15 business days thereof, notify the taxpayer in the event
33 the valuation of the taxpayer's property is changed, in writing of the results
34 of the meeting. In the event the valuation of the taxpayer's property is
35 changed and such change requires a refund of taxes and interest thereon,
36 the county treasurer shall process the refund in the manner provided by

1 subsection (l).

2 (b) No protest appealing the valuation or assessment of property shall
3 be filed pertaining to any year's valuation or assessment when an appeal of
4 such valuation or assessment was commenced pursuant to K.S.A. 79-1448,
5 and amendments thereto, nor shall the second half payment of taxes be
6 protested when the first half payment of taxes has been protested.
7 Notwithstanding the foregoing, this provision shall not prevent any
8 subsequent owner from protesting taxes levied for the year in which such
9 property was acquired, nor shall it prevent any taxpayer from protesting
10 taxes when the valuation or assessment of such taxpayer's property has
11 been changed pursuant to an order of the director of property valuation.

12 (c) A protest shall not be necessary to protect the right to a refund of
13 taxes in the event a refund is required because the final resolution of an
14 appeal commenced pursuant to K.S.A. 79-1448, and amendments thereto,
15 occurs after the final date prescribed for the protest of taxes.

16 (d) If the grounds of such protest shall be that the valuation or
17 assessment of the property upon which the taxes so protested are levied is
18 illegal or void, such statement shall further state the exact amount of
19 valuation or assessment which the taxpayer admits to be valid and the
20 exact portion of such taxes which is being protested.

21 (e) If the grounds of such protest shall be that any tax levy, or any
22 part thereof, is illegal, such statement shall further state the exact portion
23 of such tax which is being protested.

24 (f) Upon the filing of a written statement of protest, the grounds of
25 which shall be that any tax levied, or any part thereof, is illegal, the county
26 treasurer shall mail a copy of such written statement of protest to the state
27 board of tax appeals and the governing body of the taxing district making
28 the levy being protested.

29 (g) Within 30 days after notification of the results of the informal
30 meeting with the county appraiser pursuant to subsection (a), the
31 protesting taxpayer may, if aggrieved by the results of the informal
32 meeting with the county appraiser, appeal such results to the state board of
33 tax appeals.

34 (h) After examination of the copy of the written statement of protest
35 and a copy of the written notification of the results of the informal meeting
36 with the county appraiser in cases where the grounds of such protest is that
37 the valuation or assessment of the property upon which the taxes are levied
38 is illegal or void, the board shall conduct a hearing in accordance with the
39 provisions of the Kansas administrative procedure act, unless waived by
40 the interested parties in writing. If the grounds of such protest is that the
41 valuation or assessment of the property is illegal or void the board shall
42 notify the county appraiser thereof.

43 (i) In the event of a hearing, the same shall be originally set not later

1 than 90 days after the filing of the copy of the written statement of protest
2 and a copy, when applicable, of the written notification of the results of the
3 informal meeting with the county appraiser with the board. With regard to
4 any matter properly submitted to the board relating to the determination of
5 valuation of residential property or real property used for commercial and
6 industrial purposes for taxation purposes, it shall be the duty of the county
7 appraiser to initiate the production of evidence to demonstrate, by a
8 preponderance of the evidence, the validity and correctness of such
9 determination except that no such duty shall accrue to the county or
10 district appraiser with regard to leased commercial and industrial property
11 unless the property owner has furnished to the county or district appraiser
12 a complete income and expense statement for the property for the three
13 years next preceding the year of appeal. No presumption shall exist in
14 favor of the county appraiser with respect to the validity and correctness of
15 such determination. In all instances where the board sets a request for
16 hearing and requires the representation of the county by its attorney or
17 counselor at such hearing, the county shall be represented by its county
18 attorney or counselor.

19 (j) When a determination is made as to the merits of the tax protest,
20 the board shall render and serve its order thereon. The county treasurer
21 shall notify all affected taxing districts of the amount by which tax
22 revenues will be reduced as a result of a refund.

23 (k) If a protesting taxpayer fails to file a copy of the written statement
24 of protest and a copy, when applicable, of the written notification of the
25 results of the informal meeting with the county appraiser with the board
26 within the time limit prescribed, such protest shall become null and void
27 and of no effect whatsoever.

28 (l) (1) In the event the board orders that a refund be made pursuant to
29 this section or the provisions of K.S.A. 79-1609, and amendments thereto,
30 or a court of competent jurisdiction orders that a refund be made, and no
31 appeal is taken from such order, or in the event a change in valuation
32 which results in a refund pursuant to subsection (a), the county treasurer
33 shall, as soon thereafter as reasonably practicable, refund to the taxpayer
34 such protested taxes and, with respect to protests or appeals commenced
35 after the effective date of this act, interest computed at the rate prescribed
36 by K.S.A. 79-2968, and amendments thereto, minus two percentage points,
37 per annum from the date of payment of such taxes from tax moneys
38 collected but not distributed. Upon making such refund, the county
39 treasurer shall charge the fund or funds having received such protested
40 taxes, except that, with respect to that portion of any such refund
41 attributable to interest the county treasurer shall charge the county general
42 fund. In the event that the state board of tax appeals or a court of
43 competent jurisdiction finds that any time delay in making its decision is

1 unreasonable and is attributable to the taxpayer, it may order that no
2 interest or only a portion thereof be added to such refund of taxes.

3 (2) No interest shall be allowed pursuant to paragraph (1) in any case
4 where the tax paid under protest was inclusive of delinquent taxes.

5 (m) Whenever, by reason of the refund of taxes previously received
6 or the reduction of taxes levied but not received as a result of decreases in
7 assessed valuation, it will be impossible to pay for imperative functions for
8 the current budget year, the governing body of the taxing district affected
9 may issue no-fund warrants in the amount necessary. Such warrants shall
10 conform to the requirements prescribed by K.S.A. 79-2940, and
11 amendments thereto, except they shall not bear the notation required by
12 such section and may be issued without the approval of the state board of
13 tax appeals. The governing body of such taxing district shall make a tax
14 levy at the time fixed for the certification of tax levies to the county clerk
15 next following the issuance of such warrants sufficient to pay such
16 warrants and the interest thereon. All such tax levies shall be in addition to
17 all other levies authorized by law.

18 (n) Whenever a taxpayer appeals to the board of tax appeals pursuant
19 to the provisions of K.S.A. 79-1609, and amendments thereto, or pays
20 taxes under protest related to one property whereby the assessed valuation
21 of such property exceeds 5% of the total county assessed valuation of all
22 property located within such county and the taxpayer receives a refund of
23 such taxes paid under protest or a refund made pursuant to the provisions
24 of K.S.A. 79-1609, and amendments thereto, the county treasurer or the
25 governing body of any taxing subdivision within a county may request the
26 pooled money investment board to make a loan to such county or taxing
27 subdivision as provided in this section. The pooled money investment
28 board is authorized and directed to loan to such county or taxing
29 subdivision sufficient funds to enable the county or taxing subdivision to
30 refund such taxes to the taxpayer. The pooled money investment board is
31 authorized and directed to use any moneys in the operating accounts,
32 investment accounts or other investments of the state of Kansas to provide
33 the funds for such loan. Each loan shall bear interest at a rate equal to the
34 net earnings rate of the pooled money investment portfolio at the time of
35 the making of such loan. The total aggregate amount of loans under this
36 program shall not exceed \$50,000,000 of unencumbered funds pursuant to
37 article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments
38 thereto. Such loan shall not be deemed to be an indebtedness or debt of the
39 state of Kansas within the meaning of section 6 of article 11 of the
40 constitution of the state of Kansas. Upon certification to the pooled money
41 investment board by the county treasurer or governing body of the amount
42 of each loan authorized pursuant to this subsection, the pooled money
43 investment board shall transfer each such amount certified by the county

1 treasurer or governing body from the state bank account or accounts
2 prescribed in this subsection to the county treasurer who shall deposit such
3 amount in the county treasury. Any such loan authorized pursuant to this
4 subsection shall be repaid within four years. The county or taxing
5 subdivision shall make not more than four equal annual tax levies at the
6 time fixed for the certification of tax levies to the county clerk following
7 the making of such loan sufficient to pay such loan within the time period
8 required under such loan. All such tax levies shall be in addition to all
9 other levies authorized by law.

10 (o) The county treasurer shall disburse to the proper funds all portions
11 of taxes paid under protest and shall maintain a record of all portions of
12 such taxes which are so protested and shall notify the governing body of
13 the taxing district levying such taxes thereof and the director of accounts
14 and reports if any tax protested was levied by the state.

15 (p) This statute shall not apply to the valuation and assessment of
16 property assessed by the director of property valuation and it shall not be
17 necessary for any owner of state assessed property, who has an appeal
18 pending before the state board of tax appeals, to protest the payment of
19 taxes under this statute solely for the purpose of protecting the right to a
20 refund of taxes paid under protest should that owner be successful in that
21 appeal.

22 Sec. 2. K.S.A. 2014 Supp. 79-2005 is hereby repealed.

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