

HOUSE BILL No. 2615

By Representative Croft

2-11

1 AN ACT concerning the state board of tax appeals; relating to appeals;
2 creating a mediation process; removing the small claims and expedited
3 hearings division process; amending K.S.A. 74-2433f, 74-2433g and
4 79-1448 and repealing the existing sections.

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

7 Section 1. K.S.A. 74-2433f is hereby amended to read as follows: 74-
8 2433f. (a) There shall be a division of the state board of tax appeals known
9 as the ~~small claims and expedited hearings~~ *mediation* division. ~~Hearing~~
10 ~~officers~~ *Mediators* appointed by the chief hearing officer *shall be*
11 *qualified, impartial and trained in effective mediation techniques and shall*
12 *have authority to hear and decide mediate cases heard in the small claims*
13 ~~and expedited hearings mediation division. The function of the mediator is~~
14 *to bring the parties together under such favorable auspices as will tend to*
15 *effectuate settlement of disputed issues in the appeal, but the mediator*
16 *shall not have any power of compulsion in mediation proceedings.*

17 (b) The ~~small claims and expedited hearings~~ *mediation* division shall
18 have jurisdiction over ~~hearing and deciding~~ applications for the refund of
19 protested taxes under the provisions of K.S.A. 79-2005, and amendments
20 thereto, and ~~hearing and deciding~~ appeals from decisions rendered
21 pursuant to the provisions of K.S.A. 79-1448, and amendments thereto,
22 and of article 16 of chapter 79 of the Kansas Statutes Annotated, and
23 amendments thereto, with regard to single-family residential property. The
24 filing of an appeal with the ~~small claims and expedited hearings~~ *mediation*
25 division shall be a prerequisite for filing an appeal with the state board of
26 tax appeals for appeals involving single-family residential property.

27 (c) At the election of the taxpayer, the ~~small claims and expedited~~
28 ~~hearings~~ *mediation* division shall have jurisdiction over: (1) Any appeal of
29 a decision, finding, order or ruling of the director of taxation, except an
30 appeal, finding, order or ruling relating to an assessment issued pursuant to
31 K.S.A. 79-5201 et seq., and amendments thereto, in which the amount of
32 tax in controversy does not exceed \$15,000; (2) ~~hearing and deciding~~
33 applications for the refund of protested taxes under the provisions of
34 K.S.A. 79-2005, and amendments thereto, where the value of the property,
35 other than property devoted to agricultural use, is less than \$3,000,000 as
36 reflected on the valuation notice; and (3) ~~hearing and deciding~~ appeals

1 from decisions rendered pursuant to the provisions of K.S.A. 79-1448, and
2 amendments thereto, and of article 16 of chapter 79 of the Kansas Statutes
3 Annotated, and amendments thereto, other than those relating to land
4 devoted to agricultural use, wherein the value of the property is less than
5 \$3,000,000 as reflected on the valuation notice.

6 (d) In accordance with the provisions of K.S.A. 74-2438, and
7 amendments thereto, any party may elect to appeal any application or
8 decision referenced in subsection (b) to the state board of tax appeals.
9 Except as provided in subsection (b) regarding single-family residential
10 property, the filing of an appeal with the ~~small claims and expedited~~
11 ~~hearings mediation~~ division shall not be a prerequisite for filing an appeal
12 with the state board of tax appeals under this section. ~~Final decisions of the~~
13 ~~small claims and expedited hearings division may be appealed to the state~~
14 ~~board of tax appeals. An appeal of a decision of the small claims and~~
15 ~~expedited hearings division to the state board of tax appeals shall be de~~
16 ~~novo. The county bears the burden of proof in any appeal filed by the~~
17 ~~county pursuant to this section.~~

18 (e) A taxpayer shall commence a proceeding in the ~~small claims and~~
19 ~~expedited hearings mediation~~ division by filing a notice of appeal in the
20 form prescribed by the rules of the state board of tax appeals which shall
21 state the nature of the taxpayer's claim. The notice of appeal may be signed
22 by the taxpayer, any person with an executed declaration of representative
23 form from the property valuation division of the department of revenue or
24 any person authorized to represent the taxpayer in subsection (f). Notice of
25 appeal shall be provided to the appropriate unit of government named in
26 the notice of appeal by the taxpayer. ~~In any valuation appeal or tax protest~~
27 ~~commenced pursuant to articles 14 and 20 of chapter 79 of the Kansas~~
28 ~~Statutes Annotated, and amendments thereto, the hearing shall be~~
29 ~~conducted in the county where the property is located or a county adjacent~~
30 ~~thereto. In any appeal from a final determination by the secretary of~~
31 ~~revenue, the hearing shall be conducted in the county in which the~~
32 ~~taxpayer resides or a county adjacent thereto.~~

33 (f) ~~The hearing in the small claims and expedited hearings division~~
34 ~~shall be informal. The hearing officer may hear any testimony and receive~~
35 ~~any evidence the hearing officer deems necessary or desirable for a just~~
36 ~~determination of the case. A hearing officer shall have the authority to~~
37 ~~administer oaths in all matters before the hearing officer. All testimony~~
38 ~~shall be given under oath. (1) The mediation conference in the mediation~~
39 ~~division shall be conducted within 60 days after the appeal is filed in the~~
40 ~~mediation division unless such time period is waived by the taxpayer.~~

41 (2) *Persons with final settlement authority for each party shall be*
42 *present, in person, by telephone or by video conference, at the mediation*
43 *conference. A party may appear personally or may be represented by an*

1 attorney, a certified public accountant, a certified general appraiser, a tax
2 representative or agent, a member of the taxpayer's immediate family or an
3 authorized employee of the taxpayer. A county or unified government may
4 be represented by the county appraiser, designee of the county appraiser,
5 ~~county attorney or counselor~~ or other representatives so designated. No
6 transcript of the proceedings shall be kept.

7 (3) *In any valuation appeal or tax protest commenced pursuant to*
8 *articles 14 and 20 of chapter 79 of the Kansas Statutes Annotated, and*
9 *amendments thereto, the mediation conference shall be conducted in the*
10 *county where the property is located or a county adjacent thereto. In any*
11 *appeal from a final determination by the secretary of revenue, the*
12 *mediation conference shall be conducted in the county where the taxpayer*
13 *resides or a county adjacent thereto.*

14 (g) ~~The hearing in the small claims and expedited hearings division~~
15 ~~shall be conducted within 60 days after the appeal is filed in the small~~
16 ~~claims and expedited hearings division unless such time period is waived~~
17 ~~by the taxpayer. A decision shall be rendered by the hearing officer within~~
18 ~~30 days after the hearing is concluded and, in cases arising from appeals~~
19 ~~described by subsections (b) and (c)(2) and (3), shall be accompanied by a~~
20 ~~written explanation of the reasoning upon which such decision is based.~~
21 Documents provided by a taxpayer or county or district appraiser shall be
22 returned to the taxpayer or the county or district appraiser by the hearing
23 officer mediator and shall not become a part of the board's permanent
24 records. Documents provided to the hearing officer mediator shall be
25 confidential and may not be disclosed, except as otherwise specifically
26 provided.

27 (h) ~~With regard to any matter properly submitted to the division~~
28 ~~relating to the determination of valuation of property for taxation purposes,~~
29 ~~it shall be the duty of the county appraiser to initiate the production of~~
30 ~~evidence to demonstrate, by a preponderance of the evidence, the validity~~
31 ~~and correctness of such determination. No presumption shall exist in favor~~
32 ~~of the county appraiser with respect to the validity and correctness of such~~
33 ~~determination. With regard to leased commercial and industrial property,~~
34 ~~the burden of proof shall be on the taxpayer unless the taxpayer has~~
35 ~~furnished the county or district appraiser, within 30 calendar days~~
36 ~~following the informal meeting required by K.S.A. 79-1448, and~~
37 ~~amendments thereto, or within 30 calendar days following the informal~~
38 ~~meeting required by K.S.A. 79-2005, and amendments thereto, a complete~~
39 ~~income and expense statement for the property for the three years next~~
40 ~~preceding the year of appeal. Such income and expense statement shall be~~
41 ~~in such format that is regularly maintained by the taxpayer in the ordinary~~
42 ~~course of the taxpayer's business. If the taxpayer submits a single property~~
43 ~~appraisal with an effective date of January 1 of the year appealed, the~~

1 ~~burden of proof shall return to the county appraiser.~~ (1) *If a settlement of*
2 *all disputed issues in the appeal is reached, the mediator shall make a*
3 *written summary of any understanding reached by the parties. A copy of*
4 *the summary shall be provided to the parties. The settlement agreement*
5 *shall be reduced to writing and signed by the parties. The signed*
6 *settlement agreement shall be filed with the mediation division within 30*
7 *days after the mediation conference. The settlement agreement is final and*
8 *is not subject to appeal.*

9 (2) *If the mediation conference fails to result in a settlement of all*
10 *disputed issues between the parties, the taxpayer may appeal to the state*
11 *board of tax appeals within 30 days after the date of the mediation*
12 *conference. At the conclusion of such mediation conference, the mediator*
13 *shall provide to the taxpayer an appeal form that includes an explanation*
14 *of the right to appeal. The mediator shall also notify the mediation*
15 *division, in writing, that the mediation conference failed to result in a*
16 *settlement and that the taxpayer was provided notice of the right to*
17 *appeal. Failure to timely appeal within 30 days of the date of the*
18 *mediation conference means that the appeal shall be closed and not*
19 *subject to further review.*

20 Sec. 2. K.S.A. 74-2433g is hereby amended to read as follows: 74-
21 2433g. (a) ~~The hearing officers~~ *mediators* of the ~~small claims and~~
22 ~~expedited hearings~~ *mediation* division shall be appointed by the chief
23 hearing officer of the state board of tax appeals.

24 (b) ~~Each hearing officer~~ *mediator* of the ~~small claims and expedited~~
25 ~~hearings~~ *mediation* division shall receive compensation in an amount
26 determined by the chairperson and approved by the board.

27 Sec. 3. K.S.A. 79-1448 is hereby amended to read as follows: 79-
28 1448. Any taxpayer may complain or appeal to the county appraiser from
29 the classification or appraisal of the taxpayer's property by giving notice to
30 the county appraiser within 30 days subsequent to the date of mailing of
31 the valuation notice required by K.S.A. 79-1460, and amendments thereto,
32 for real property, and on or before May 15 for personal property. The
33 county appraiser or the appraiser's designee shall arrange to hold an
34 informal meeting with the aggrieved taxpayer with reference to the
35 property in question. At such meeting it shall be the duty of the county
36 appraiser or the county appraiser's designee to initiate production of
37 evidence to substantiate the valuation of such property, including, a
38 summary of the reasons that the valuation of the property has been
39 increased over the previous year, any assumptions used by the county
40 appraiser to determine the value of the property and a description of the
41 individual property characteristics, property specific valuation records and
42 conclusions. The taxpayer shall be provided with the opportunity to review
43 the data sheets applicable to the valuation approach utilized for the subject

1 property. The county appraiser shall take into account any evidence
2 provided by the taxpayer which relates to the amount of deferred
3 maintenance and depreciation for the property. In any appeal from the
4 appraisal of leased commercial and industrial property, the county or
5 district appraiser's appraised value shall be presumed to be valid and
6 correct and may only be rebutted by a preponderance of the evidence,
7 unless the property owner furnishes the county or district appraiser a
8 complete income and expense statement for the property for the three
9 years next preceding the year of appeal within 30 calendar days following
10 the informal meeting. In any appeal from the reclassification of property
11 that was classified as land devoted to agricultural use for the preceding
12 year, the taxpayer's classification of the property as land devoted to
13 agricultural use shall be presumed to be valid and correct if the taxpayer
14 provides an executed lease agreement or other documentation
15 demonstrating a commitment to use the property for agricultural use, if no
16 other actual use is evident. The county appraiser may extend the time in
17 which the taxpayer may informally appeal from the classification or
18 appraisal of the taxpayer's property for just and adequate reasons. Except
19 as provided in K.S.A. 79-1404, and amendments thereto, no informal
20 meeting regarding real property shall be scheduled to take place after May
21 15, nor shall a final determination be given by the appraiser after May 20.
22 Any final determination shall be accompanied by a written explanation of
23 the reasoning upon which such determination is based when such
24 determination is not in favor of the taxpayer. Any taxpayer who is
25 aggrieved by the final determination of the county appraiser may appeal to
26 the hearing officer or panel appointed pursuant to K.S.A. 79-1611, and
27 amendments thereto, and such hearing officer, or panel, for just cause
28 shown and recorded, is authorized to change the classification or valuation
29 of specific tracts or individual items of real or personal property in the
30 same manner provided for in K.S.A. 79-1606, and amendments thereto. In
31 lieu of appealing to a hearing officer or panel appointed pursuant to K.S.A.
32 79-1611, and amendments thereto, any taxpayer aggrieved by the final
33 determination of the county appraiser, except with regard to land devoted
34 to agricultural use, wherein the value of the property, is less than
35 \$3,000,000, as reflected on the valuation notice, or the property constitutes
36 ~~single family~~ *single-family* residential property, may appeal to the ~~small~~
37 ~~claims and expedited hearings~~ *mediation* division of the state board of tax
38 appeals within the time period prescribed by K.S.A. 79-1606, and
39 amendments thereto. Any taxpayer who is aggrieved by the final
40 determination of a hearing officer or panel may appeal to the state board of
41 tax appeals as provided in K.S.A. 79-1609, and amendments thereto. An
42 informal meeting with the county appraiser or the appraiser's designee
43 shall be a condition precedent to an appeal to the county or district hearing

1 panel.

2 Sec. 4. K.S.A. 74-2433f, 74-2433g and 79-1448 are hereby repealed.

3 Sec. 5. This act shall take effect and be in force from and after its

4 publication in the statute book.