

2023 Kansas Statutes

79-1616. Definitions. As used in this act:

- (a) "Act" means the COVID-19 retail storefront property tax relief act.
- (b) (1) "Claimant" means a for-profit business, regardless of legal structure, who has filed a claim under the provisions of this act and who:
 - (A) Conducts a majority of its retail sales through customers' physical, on-site presence at a retail storefront property;
 - (B) was in operation on or prior to July 1, 2019, and filed a 2019 tax return;
 - (C) had at least \$10,000 in annual revenues, including gross sales and receipts, in 2019;
 - (D) received less gross revenue in 2020 or 2021, as applicable, compared to 2019;
 - (E) was in active operations as of March 1, 2020; and
 - (F) has not received more than a total of \$150,000 in prior COVID-19-related local, state or federal funding or any combination thereof.
- (2) "Claimant" shall not include:
 - (A) Grocery stores and pharmacies;
 - (B) hardware stores and home improvement businesses;
 - (C) retail liquor stores;
 - (D) manufacturers and food processors;
 - (E) schools, such as pre-kindergarten, kindergarten through grade 12, post-secondary, higher education, technical education and training;
 - (F) hospitals and healthcare providers, including, but not limited to, physicians, surgeons, psychologists and psychoanalysts, but not including personal services providers such as massage therapists and chiropractors;
 - (G) property management and real estate services, including owners or operators of short-term rental properties;
 - (H) professional services, including, but not limited to, accounting, insurance, legal, financial services and firms, information technology, engineering and architecture;
 - (I) agriculture and aquaculture producers, including farms, ranches and fisheries, but not including their retail storefronts used to conduct retail sales to customers;
 - (J) hosts or operators of a vacation or short-term rental unit;
 - (K) passive businesses, investment companies and investors who file a schedule E on their individual tax returns;
 - (L) financial businesses primarily engaged in the business of lending, such as banks, finance companies and factoring companies;
 - (M) cable companies, telephone companies, utilities and other similar businesses; and
 - (N) energy production, generation and distribution companies.
- (3) When a retail storefront is occupied by two or more businesses and more than one of the businesses is able to qualify as a claimant, the businesses may determine between them as to whom the claimant will be. If they are unable to agree, the matter shall be referred to the secretary of revenue whose decision shall be final.
- (c) "Gross rent" means the rental paid at arm's length solely for the right of occupancy of a retail storefront paid to a landlord, as expressly set out in the rental agreement, exclusive of charges for any utilities, services, furniture and furnishings or personal property appliances furnished by the landlord as a part of the rental agreement, whether or not expressly set out in the rental agreement. Whenever the director of taxation finds that the landlord and tenant have not dealt with each other at arm's length and that the gross rent charge was excessive, the director may adjust the gross rent to a reasonable amount for the purpose of the claim.
- (d) "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest and charges for service, levied on a claimant's retail storefront in 2020 or 2021, as applicable, by the state of Kansas and the political and taxing subdivisions of the state. When a retail storefront is owned by two or more persons or entities as joint tenants or tenants in common and one or more of the persons or entities is not a part of claimant's business, "property taxes accrued" is that part of property taxes levied on the retail storefront that reflects the ownership percentage of the claimant's business. For purposes of this act, property taxes are "levied" when

the tax roll is delivered to the local treasurer with the treasurer's warrant for collection. When a claimant owns its retail storefront part of a calendar year, "property taxes accrued" means only taxes levied on the retail storefront when both owned and occupied as a retail storefront by the claimant's business at the time of the levy, multiplied by the percentage of 12 months that the property was owned and occupied by the business as its retail storefront in the year. When a business owns and occupies two or more different retail storefronts in the same calendar year, property taxes accrued shall be the sum of the taxes allocable to those several properties while occupied by the business as its retail storefront during the year. Whenever a retail storefront is an integral part of a larger unit such as a multi-purpose or multi-retail storefront building, property taxes accrued shall be that percentage of the total property taxes accrued as the value of the retail storefront is of the total value. For the purpose of this act, the word "unit" refers to that parcel of property covered by a single tax statement of which the retail storefront is a part.

(e) "Rent constituting property taxes accrued" means 15% of the gross rent actually paid in cash or its equivalent in 2020 or 2021, as applicable, by a claimant solely for the right of occupancy of a retail storefront on which ad valorem property taxes were levied in full for that year. When a claimant occupies two or more different retail storefronts in the same calendar year, rent constituting property taxes accrued shall be computed by adding the rent constituting property taxes accrued for each property rented by the claimant while occupied by the claimant as its retail storefront during the year.

(f) "Retail storefront" means the real property in this state, whether owned or rented, that is occupied by the claimant's business and where the claimant conducts retail sales through customers' physical, on-site presence. "Retail storefront" may consist of a part of a multi-purpose or multi-retail storefront building. "Owned" includes a vendee in possession under a land contract, a life tenant, a beneficiary under a trust and one or more joint tenants or tenants in common.

History: L. 2022, ch. 98, § 2; July 1.