

HOUSE BILL No. 2586

By Representatives LeDoux, Brookens, Goodman, Grant, Gregory, Grosserode,
Hedke, Mesa, O'Hara, Peck, Rubin, Smith and Williams

1-31

1 AN ACT concerning property taxation; relating to collection and
2 cancellation of taxes; protesting payment of taxes; amending K.S.A.
3 2011 Supp. 79-2005 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2011 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 court 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, the county treasurer may not
20 distribute the taxes paid under protest until such time as the appeal is final.
21 When the grounds of such protest is that the valuation or assessment of the
22 property upon which the taxes are levied is illegal or void, the county
23 treasurer shall forward a copy of the written statement of protest to the
24 county appraiser who shall within 15 days of the receipt thereof, schedule
25 an informal meeting with the taxpayer or such taxpayer's agent or attorney
26 with reference to the property in question. *At such meeting it shall be the*
27 *duty of the county appraiser or the county appraiser's designee to initiate*
28 *production of evidence to substantiate the valuation of such property,*
29 *including affording the taxpayer the opportunity to review the data sheet*
30 *of comparable sales utilized in the determination of such valuation at least*
31 *48 hours before any hearing on such valuation.* The county appraiser shall
32 review the appraisal of the taxpayer's property with the taxpayer or such
33 taxpayer's agent or attorney and may change the valuation of the taxpayer's
34 property, if in the county appraiser's opinion a change in the valuation of
35 the taxpayer's property is required to assure that the taxpayer's property is

1 valued according to law, and shall, within 15 business days thereof, notify
2 the taxpayer in the event the valuation of the taxpayer's property is
3 changed, in writing of the results of the meeting. In the event the valuation
4 of the taxpayer's property is changed and such change requires a refund of
5 taxes and interest thereon, the county treasurer shall process the refund in
6 the manner provided by subsection (l).

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

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

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

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

29 (f) Upon the filing of a written statement of protest, the grounds of
30 which shall be that any tax levied, or any part thereof, is illegal, the county
31 treasurer shall mail a copy of such written statement of protest to the state
32 court of tax appeals and the governing body of the taxing district making
33 the levy being protested.

34 (g) Within 30 days after notification of the results of the informal
35 meeting with the county appraiser pursuant to subsection (a), the
36 protesting taxpayer may, if aggrieved by the results of the informal
37 meeting with the county appraiser, appeal such results to the state court of
38 tax appeals.

39 (h) After examination of the copy of the written statement of protest
40 and a copy of the written notification of the results of the informal meeting
41 with the county appraiser in cases where the grounds of such protest is that
42 the valuation or assessment of the property upon which the taxes are levied
43 is illegal or void, the court shall conduct a hearing in accordance with the

1 provisions of the Kansas administrative procedure act, unless waived by
2 the interested parties in writing. If the grounds of such protest is that the
3 valuation or assessment of the property is illegal or void the court shall
4 notify the county appraiser thereof.

5 (i) In the event of a hearing, the same shall be originally set not later
6 than 90 days after the filing of the copy of the written statement of protest
7 and a copy, when applicable, of the written notification of the results of the
8 informal meeting with the county appraiser with the court. With regard to
9 any matter properly submitted to the court relating to the determination of
10 valuation of residential property or real property used for commercial and
11 industrial purposes for taxation purposes, it shall be the duty of the county
12 appraiser to initiate the production of evidence to demonstrate, by a
13 preponderance of the evidence, the validity and correctness of such
14 determination except that no such duty shall accrue to the county or
15 district appraiser with regard to leased commercial and industrial property
16 unless the property owner has furnished to the county or district appraiser
17 a complete income and expense statement for the property for the three
18 years next preceding the year of appeal. No presumption shall exist in
19 favor of the county appraiser with respect to the validity and correctness of
20 such determination. In all instances where the court sets a request for
21 hearing and requires the representation of the county by its attorney or
22 counselor at such hearing, the county shall be represented by its county
23 attorney or counselor.

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

28 (k) If a protesting taxpayer fails to file a copy of the written statement
29 of protest and a copy, when applicable, of the written notification of the
30 results of the informal meeting with the county appraiser with the court
31 within the time limit prescribed, such protest shall become null and void
32 and of no effect whatsoever.

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

1 treasurer shall charge the fund or funds having received such protested
2 taxes, except that, with respect to that portion of any such refund
3 attributable to interest the county treasurer shall charge the county general
4 fund. In the event that the state court of tax appeals or a court of competent
5 jurisdiction finds that any time delay in making its decision is
6 unreasonable and is attributable to the taxpayer, it may order that no
7 interest or only a portion thereof be added to such refund of taxes.

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

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

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

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

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

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

24 Sec. 2. K.S.A. 2011 Supp. 79-2005 is hereby repealed.

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

27