

*As Amended by Senate Committee*

*Session of 2012*

**SENATE BILL No. 348**

By Committee on Local Government

1-26

1 AN ACT concerning property appraisal and taxation; amending K.S.A. 79-  
2 304 and 79-1475 and K.S.A. 2011 Supp. 74-2433f, 79-1448, 79-1460,  
3 79-1609, 79-1701a and 79-1702 and repealing the existing sections.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2011 Supp. 74-2433f is hereby amended to read as  
7 follows: 74-2433f. (a) There shall be a division of the state court of tax  
8 appeals known as the small claims and expedited hearings division.  
9 Hearing officers appointed by the chief hearing officer shall have authority  
10 to hear and decide cases heard in the small claims and expedited hearings  
11 division.

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

23 (c) At the election of the taxpayer, the small claims and expedited  
24 hearings division shall have jurisdiction over: (1) Any appeal of a decision,  
25 finding, order or ruling of the director of taxation, except an appeal,  
26 finding, order or ruling relating to an assessment issued pursuant to K.S.A.  
27 79-5201 *et seq.*, and amendments thereto, in which the amount of tax in  
28 controversy does not exceed \$15,000; (2) hearing and deciding  
29 applications for the refund of protested taxes under the provisions of  
30 K.S.A. 79-2005, and amendments thereto, where the value of the property,  
31 other than property devoted to agricultural use, is less than \$2,000,000 as  
32 reflected on the valuation notice; (3) hearing and deciding appeals from  
33 decisions rendered pursuant to the provisions of K.S.A. 79-1448, and  
34 amendments thereto, and of article 16 of chapter 79 of the Kansas Statutes  
35 Annotated, and ~~acts amendatory thereof or supplemental amendments~~  
36 thereto, other than those relating to land devoted to agricultural use,

1 wherein the value of the property is less than \$2,000,000 as reflected on  
2 the valuation notice.

3 (d) In accordance with the provisions of K.S.A. 74-2438, and  
4 amendments thereto, any party may elect to appeal any application or  
5 decision referenced in subsection (b) to the state court of tax appeals.  
6 Except as provided in subsection (b) regarding single-family residential  
7 property, the filing of an appeal with the small claims and expedited  
8 hearings division shall not be a prerequisite for filing an appeal with the  
9 state court of tax appeals under this section. Final decisions of the small  
10 claims and expedited hearings division may be appealed to the state court  
11 of tax appeals. An appeal of a decision of the small claims and expedited  
12 hearings division to the state court of tax appeals shall be *de novo*.

13 (e) A taxpayer shall commence a proceeding in the small claims and  
14 expedited hearings division by filing a notice of appeal in the form  
15 prescribed by the rules of the state court of tax appeals which shall state  
16 the nature of the taxpayer's claim. Notice of appeal shall be provided to the  
17 appropriate unit of government named in the notice of appeal by the  
18 taxpayer. In any valuation appeal or tax protest commenced pursuant to  
19 articles 14 and 20 of chapter 79 of the Kansas Statutes Annotated, and  
20 amendments thereto, the hearing shall be conducted in the county where  
21 the property is located or a county adjacent thereto. In any appeal from a  
22 final determination by the secretary of revenue, the hearing shall be  
23 conducted in the county in which the taxpayer resides or a county adjacent  
24 thereto.

25 (f) The hearing in the small claims and expedited hearings division  
26 shall be informal. The hearing officer may hear any testimony and receive  
27 any evidence the hearing officer deems necessary or desirable for a just  
28 determination of the case. A hearing officer shall have the authority to  
29 administer oaths in all matters before the hearing officer. All testimony  
30 shall be given under oath. A party may appear personally or may be  
31 represented by an attorney, a certified public accountant, a certified general  
32 appraiser, a tax representative or agent, a member of the taxpayer's  
33 immediate family or an authorized employee of the taxpayer. A county or  
34 unified government may be represented by the county appraiser, designee  
35 of the county appraiser, county attorney or counselor or other  
36 representatives so designated. No transcript of the proceedings shall be  
37 kept.

38 (g) The hearing in the small claims and expedited hearings division  
39 shall be conducted within 60 days after the appeal is filed in the small  
40 claims and expedited hearings division unless such time period is waived  
41 by the taxpayer. A decision shall be rendered by the hearing officer within  
42 30 days after the hearing is concluded and, in cases arising from appeals  
43 described by subsections (b) and (c)(2) and (3), shall be accompanied by a

1 written explanation of the reasoning upon which such decision is based.  
2 Documents provided by a taxpayer or county or district appraiser shall be  
3 returned to the taxpayer or the county or district appraiser by the hearing  
4 officer and shall not become a part of the court's permanent records.  
5 Documents provided to the hearing officer shall be confidential and may  
6 not be disclosed, except as otherwise specifically provided.

7 (h) With regard to any matter properly submitted to the division  
8 relating to the determination of valuation of property for taxation purposes,  
9 it shall be the duty of the county appraiser to initiate the production of  
10 evidence to demonstrate, by a preponderance of the evidence, the validity  
11 and correctness of such determination. No presumption shall exist in favor  
12 of the county appraiser with respect to the validity and correctness of such  
13 determination, ~~except that no such presumption shall exist with regard~~  
14 **respect to leased commercial and industrial property unless the taxpayer**  
15 **has furnished the county or district appraiser, either at the informal**  
16 **meeting required by K.S.A. 79-1448, and amendments thereto, or the**  
17 **informal meeting required by K.S.A. 79-2005, and amendments thereto, a**  
18 **complete income and expense statement for the property for the three**  
19 **years next preceding the year of appeal.**

20 Sec. 2. K.S.A. 79-304 is hereby amended to read as follows: 79-304.  
21 Every person required to list property on behalf of others shall list such  
22 property in the taxing districts in which the property is located and such  
23 person shall list such property separate and apart from such person's own  
24 property, specifying the name of the person, estate, company or  
25 corporation to which the same may belong.

26 All tangible personal property stationed, located, or stored on any  
27 municipal airport or airfield shall be listed and taxed in the township,  
28 school district, city or taxing district in which the owner resides, but if the  
29 owner is a nonresident of this state or of the county in which such tangible  
30 personal property is located, then such property shall be listed and taxed in  
31 the same township, school district, city, or taxing district in which the  
32 property is located. All personal property shall be listed and taxed each  
33 year in the taxing district in which the property was located on the first day  
34 of January, but *all vessels, as defined by K.S.A. 32-1102, and amendments*  
35 *thereto, and required to be numbered pursuant to K.S.A. 32-1110, and*  
36 *amendments thereto, which are located or stored outside this state on the*  
37 *first day of January shall be listed in the taxing district where the owner*  
38 *resided on the first day of January, and all moneys and credits not*  
39 *pertaining to a business located shall be listed in township or city and*  
40 *school district in which the owner resided on the first day of January,*  
41 *except that, a motor vehicle which is being used by and is in the*  
42 *possession of a student who is attending a university or college and which*  
43 *is owned by such student or by another person shall be listed and taxed in*

1 the township, school district, city or taxing district in which the owner of  
2 the motor vehicle resided on the first day of January. *Except as provided*  
3 *above*, whenever any person, association or corporation removes tangible  
4 personal property from this state between November 1 and the next  
5 succeeding January 1 and returns such property to this state prior to the  
6 next succeeding March 1, such person, association or corporation shall list  
7 such property for taxation with the county appraiser of the county to which  
8 such property is returned as required by K.S.A. 79-306, and amendments  
9 thereto, unless the owner of such property submits proof to the county  
10 appraiser under oath that such property was removed from the state for  
11 legitimate business purposes, and has been listed for taxation for the  
12 appropriate tax year in some other state or territory.

13 The property of banks, bankers, brokers, merchants, and of insurance or  
14 other companies, except of mutual fire insurance companies, shall be listed  
15 and taxed in the taxing district where their business is usually done, and  
16 manufactories and mines in the taxing district where the manufactories or  
17 mines are located.

18 Personal property in transit shall be listed in the taxing district where  
19 the owner resides except that, if such property is intended for a particular  
20 business, it shall be listed at the place where the business is to be  
21 transacted.

22 Sec. 3. K.S.A. 2011 Supp. 79-1448 is hereby amended to read as  
23 follows: 79-1448. Any taxpayer may complain or appeal to the county  
24 appraiser from the classification or appraisal of the taxpayer's property by  
25 giving notice to the county appraiser within 30 days subsequent to the date  
26 of mailing of the valuation notice required by K.S.A. 79-1460, and  
27 amendments thereto, for real property, and on or before May 15 for  
28 personal property. The county appraiser or the appraiser's designee shall  
29 arrange to hold an informal meeting with the aggrieved taxpayer with  
30 reference to the property in question. At such meeting it shall be the duty  
31 of the county appraiser or the county appraiser's designee to initiate  
32 production of evidence to substantiate the valuation of such property,  
33 including the affording to the taxpayer of the opportunity to review the  
34 data sheet of comparable sales utilized in the determination of such  
35 valuation. *In any appeal from the appraisal of leased commercial and*  
36 *industrial property, the county or district appraiser's appraised value shall*  
37 *be presumed to be valid and correct and may only be rebutted by a*  
38 *preponderance of the evidence, unless the property owner furnishes the*  
39 *county or district appraiser a complete income and expense statement for*  
40 *the property for the three years next preceding the year of appeal.* The  
41 county appraiser may extend the time in which the taxpayer may  
42 informally appeal from the classification or appraisal of the taxpayer's  
43 property for just and adequate reasons. Except as provided in K.S.A. 79-

1 1404, and amendments thereto, no informal meeting regarding real  
2 property shall be scheduled to take place after May 15, nor shall a final  
3 determination be given by the appraiser after May 20. Any final  
4 determination shall be accompanied by a written explanation of the  
5 reasoning upon which such determination is based when such  
6 determination is not in favor of the taxpayer. Any taxpayer who is  
7 aggrieved by the final determination of the county appraiser may appeal to  
8 the hearing officer or panel appointed pursuant to K.S.A. 79-1611, and  
9 amendments thereto, and such hearing officer, or panel, for just cause  
10 shown and recorded, is authorized to change the classification or valuation  
11 of specific tracts or individual items of real or personal property in the  
12 same manner provided for in K.S.A. 79-1606, and amendments thereto. In  
13 lieu of appealing to a hearing officer or panel appointed pursuant to K.S.A.  
14 79-1611, and amendments thereto, any taxpayer aggrieved by the final  
15 determination of the county appraiser, except with regard to land devoted  
16 to agricultural use, wherein the value of the property, is less than  
17 \$2,000,000, as reflected on the valuation notice, or the property constitutes  
18 single family residential property, may appeal to the small claims and  
19 expedited hearings division of the state court of tax appeals within the time  
20 period prescribed by K.S.A. 79-1606, and amendments thereto. Any  
21 taxpayer who is aggrieved by the final determination of a hearing officer  
22 or panel may appeal to the state court of tax appeals as provided in K.S.A.  
23 79-1609, and amendments thereto. An informal meeting with the county  
24 appraiser or the appraiser's designee shall be a condition precedent to an  
25 appeal to the county or district hearing panel.

26 Sec. 4. K.S.A. 2011 Supp. 79-1460 is hereby amended to read as  
27 follows: 79-1460. (a) The county appraiser shall notify each taxpayer in  
28 the county annually on or before March 1 for real property and May 1 for  
29 personal property, by mail, *which shall include electronic mail when an*  
30 *electronic mail address has been provided by the taxpayer or is included*  
31 *in any personal property tax return filed pursuant to K.S.A. 79-303 or 79-*  
32 *332a, and amendments thereto*, directed to the taxpayer's last known  
33 address, of the classification and appraised valuation of the taxpayer's  
34 property, except that, the valuation for all real property shall not be  
35 increased unless: (1) The record of the latest physical inspection was  
36 reviewed by the county or district appraiser, and documentation exists to  
37 support such increase in valuation in compliance with the directives and  
38 specifications of the director of property valuation, and such record and  
39 documentation is available to the affected taxpayer; and (2) for the taxable  
40 year next following the taxable year that the valuation for real property has  
41 been reduced due to a final determination made pursuant to the valuation  
42 appeals process, documented substantial and compelling reasons exist  
43 therefor and are provided by the county appraiser. When the valuation for

1 real property has been reduced due to a final determination made pursuant  
2 to the valuation appeals process for the prior year, and the county appraiser  
3 has already certified the appraisal rolls for the current year to the county  
4 clerk pursuant to K.S.A. 79-1466, and amendments thereto, the county  
5 appraiser may amend the appraisal rolls and certify the changes to the  
6 county clerk to implement the provisions of this subsection and reduce the  
7 valuation of the real property to the prior year's final determination, except  
8 that such changes shall not be made after October 31 of the current year.  
9 For the purposes of this section and in the case of real property, the term  
10 "taxpayer" shall be deemed to be the person in ownership of the property  
11 as indicated on the records of the office of register of deeds or county clerk  
12 and, in the case where the real property or improvement thereon is the  
13 subject of a lease agreement, such term shall also be deemed to include the  
14 lessee of such property if the lease agreement has been recorded or filed in  
15 the office of the register of deeds. Such notice shall specify separately both  
16 the previous and current appraised and assessed values for each property  
17 class identified on the parcel. Such notice shall also contain the uniform  
18 parcel identification number prescribed by the director of property  
19 valuation. Such notice shall also contain a statement of the taxpayer's right  
20 to appeal, the procedure to be followed in making such appeal and the  
21 availability without charge of the guide devised pursuant to subsection (b).  
22 Such notice may, and if the board of county commissioners so require,  
23 shall provide the parcel identification number, address and the sale date  
24 and amount of any or all sales utilized in the determination of appraised  
25 value of residential real property. In any year in which no change in  
26 appraised valuation of any real property from its appraised valuation in the  
27 next preceding year is determined, an alternative form of notification  
28 which has been approved by the director of property valuation may be  
29 utilized by a county. Failure to timely mail or receive such notice shall in  
30 no way invalidate the classification or appraised valuation as changed. The  
31 secretary of revenue shall adopt rules and regulations necessary to  
32 implement the provisions of this section.

33 (b) For all taxable years commencing after December 31, 1999, there  
34 shall be provided to each taxpayer, upon request, a guide to the property  
35 tax appeals process. The director of the division of property valuation shall  
36 devise and publish such guide, and shall provide sufficient copies thereof  
37 to all county appraisers. Such guide shall include but not be limited to: (1)  
38 A restatement of the law which pertains to the process and practice of  
39 property appraisal methodology, including the contents of K.S.A. 79-503a  
40 and 79-1460, and amendments thereto; (2) the procedures of the appeals  
41 process, including the order and burden of proof of each party and time  
42 frames required by law; and (3) such other information deemed necessary  
43 to educate and enable a taxpayer to properly and competently pursue an

1 appraisal appeal.

2 Sec. 5. K.S.A. 79-1475 is hereby amended to read as follows: 79-  
3 1475. Whenever the county appraiser discovers that any real property *or*  
4 *improvements thereon*, subject to taxation has been omitted from the tax  
5 rolls, such property *or improvements thereon*, shall immediately be listed  
6 and valued by the appraiser, and returned to the county clerk. The county  
7 clerk, upon receipt of the valuation for such property *or improvements*  
8 *thereon*, shall place such property on the tax rolls and compute the amount  
9 of tax due based upon the mill levy for the year or years, not to exceed two  
10 calendar years preceding January 1 of the calendar year in which the  
11 property is discovered, in which such tax should have been levied, and  
12 shall certify such amount to the county treasurer as an added or escaped  
13 appraisal. The amount of such tax shall be due immediately and payable  
14 within 45 days after the issuance of an added or escaped property tax bill  
15 by the county treasurer. No interest shall be imposed unless the tax  
16 remains unpaid after such 45-day period. Taxes levied pursuant to this  
17 section which remain unpaid after such 45 day period shall be deemed  
18 delinquent and the county treasurer shall proceed to collect and distribute  
19 such tax in the same manner as prescribed by law for the collection and  
20 distribution of other taxes levied on property which are delinquent. No  
21 property tax levied pursuant to this section shall be payable by any person  
22 other than the current owner of the property unless such property was  
23 acquired by will, inheritance or gift. Notwithstanding the foregoing, if the  
24 current owner of any such property *or improvements thereon*, purchased in  
25 the tax year in which such property was discovered to have been omitted  
26 from the tax rolls pays the property tax which would have been levied  
27 upon such property for such year within 45 days after the issuance of an  
28 added or escaped property tax bill by the county treasurer, such owner  
29 shall not be liable for any property tax which would have been levied upon  
30 such property for any prior taxable year. *Improvements, as used in this*  
31 *section, shall include all improvements on the property parcel omitted*  
32 *from the tax rolls notwithstanding that other improvements on the property*  
33 *parcel were not omitted from the tax rolls.*

34 Sec. 6. K.S.A. 2011 Supp. 79-1609 is hereby amended to read as  
35 follows: 79-1609. Any person aggrieved by any order of the hearing  
36 officer or panel may appeal to the state court of tax appeals by filing a  
37 written notice of appeal, on forms approved by the state court of tax  
38 appeals and provided by the county clerk for such purpose, stating the  
39 grounds thereof and a description of any comparable property or properties  
40 and the appraisal thereof upon which they rely as evidence of inequality of  
41 the appraisal of their property, if that be a ground of the appeal, with the  
42 state court of tax appeals and by filing a copy thereof with the county clerk  
43 within 30 days after the date of the order from which the appeal is taken. A

1 county or district appraiser may appeal to the state court of tax appeals  
2 from any order of the hearing officer or panel. With regard to any matter  
3 properly submitted to the court relating to the determination of valuation  
4 of residential property or real property used for commercial and industrial  
5 purposes for taxation purposes, it shall be the duty of the county appraiser  
6 to initiate the production of evidence to demonstrate, by a preponderance  
7 of the evidence, the validity and correctness of such determination except  
8 that no such duty shall accrue with regard to leased commercial and  
9 industrial property unless the ~~property owner~~ taxpayer has furnished to the  
10 county or district appraiser a complete income and expense statement for  
11 the property for the three years next preceding the year of appeal *as*  
12 *required by K.S.A. 79-1448, and amendments thereto.* No presumption  
13 shall exist in favor of the county appraiser with respect to the validity and  
14 correctness of such determination, ~~except that no such presumption shall~~  
15 ~~exist with regard~~ **respect** to leased commercial and industrial property  
16 unless the taxpayer has furnished the county or district appraiser at the  
17 informal meeting required by K.S.A. 79-1448, and amendments thereto, a  
18 complete income and expense statement for the property for the three  
19 years next preceding the year of appeal.

20 Sec. 7. K.S.A. 2011 Supp. 79-1701a is hereby amended to read as  
21 follows: 79-1701a. Any taxpayer, the county appraiser or the county clerk  
22 shall, on their own motion, request the board of county commissioners to  
23 order the correction of the clerical errors in the appraisal, assessment or tax  
24 rolls as described in K.S.A. 79-1701, and amendments thereto. The board  
25 of county commissioners of the several counties are hereby authorized to  
26 order the correction of clerical errors, specified in K.S.A. 79-1701, and  
27 amendments thereto, in the appraisal, assessment or tax rolls for the  
28 current year and the immediately preceding two years during the period on  
29 and after November 1 of each year. If a county treasurer has collected and  
30 distributed the property taxes of a taxpayer and it shall thereafter be  
31 determined that the tax computed and paid was based on an erroneous  
32 assessment due to a clerical error which resulted in an overpayment of  
33 taxes by the taxpayer, and such error is corrected under the provisions  
34 hereof then the county commissioners may direct a refund in the amount  
35 of the overpayment plus interest at the rate prescribed by K.S.A. 79-2968,  
36 and amendments thereto, plus two percentage points, per annum, from the  
37 date of payment from tax moneys collected during the current year and  
38 approve a claim therefor. If all or any portion of the taxes on such property  
39 remain unpaid, the board of county commissioners shall cancel that  
40 portion of such unpaid taxes which were assessed on the basis of the error  
41 which is being corrected. In lieu of taking such a refund the taxpayer may,  
42 at the taxpayer's option, be allowed a credit on the current year's taxes in  
43 the amount of the overpayment plus interest at the rate prescribed by



1 K.S.A. 79-2968, and amendments thereto, from the date of payment for  
2 the previous year. In the event the error results in an understatement of  
3 value or taxes as a result of ~~a mathematical miscalculation on the part of~~  
4 ~~the county~~, *the correction of the clerical errors listed in subsection (a), (c),*  
5 *(f) or (g) of K.S.A. 79-1701, and amendments thereto, and the board of*  
6 *county commissioners of the several counties are hereby authorized to*  
7 *correct such error and order an additional assessment or tax bill, or both, to*  
8 *be issued, except that, in no such case shall the taxpayer be assessed*  
9 *interest or penalties on any tax which may be assessed. If such error*  
10 *applies to property which has been sold or otherwise transferred*  
11 *subsequent to the time the error was made, no such additional assessment*  
12 *or tax bill shall be issued.*

13 Sec. 8. K.S.A. 2011 Supp. 79-1702 is hereby amended to read as  
14 follows: 79-1702. If any taxpayer, municipality or taxing district shall have  
15 a grievance described under the provisions of K.S.A. 79-1701 or 79-  
16 1701a, and amendments thereto, which is not remediable thereunder solely  
17 because not reported within the time prescribed therein, or which was  
18 remediable thereunder and reported to the proper official or officials  
19 within the time prescribed but which has not been remedied by such  
20 official or officials, such grievance may be presented to the state court of  
21 tax appeals and if it shall be satisfied from competent evidence produced  
22 that there is a real grievance, it may direct that the same be remedied either  
23 by canceling the tax, if uncollected, together with all penalties charged  
24 thereon, or if the tax has been paid, by ordering a refund of the amount  
25 found to have been unlawfully charged and collected and interest at the  
26 rate prescribed by K.S.A. 79-2968, and amendments thereto, minus two  
27 percentage points.

28 In all cases where the identical property owned by any taxpayer has  
29 been assessed for the current tax year in more than one county in the state,  
30 the court is hereby given authority to determine which county is entitled to  
31 the assessment of the property and to charge legal taxes thereon, and if the  
32 taxes have been paid in a county not entitled thereto, the court is hereby  
33 empowered to direct the authorities of the county which has so unlawfully  
34 collected the taxes to refund the same to the taxpayer with all penalties  
35 charged thereon.

36 No tax grievance shall be considered by the state court of tax appeals  
37 unless the same is filed within four years from the date the tax would have  
38 become a lien on real estate.

39 In all cases where an error results in an understatement of values or  
40 taxes as a result of ~~a mathematical miscalculation on the part of a county,~~  
41 *the correction of the clerical errors listed in subsection (a), (c), (f) or (g)*  
42 *of K.S.A. 79-1701, and amendments thereto, the state court of tax appeals,*  
43 *if it shall be satisfied from competent evidence produced that there is an*

1 understatement as a result of a clerical error, may order an additional  
2 assessment or tax bill, or both, to be issued so that the proper value of the  
3 property in question is reflected, except that, in no such case shall the  
4 taxpayer be assessed interest or penalties on any tax which may be  
5 assessed. No increase shall be ordered to correct such error that extends  
6 back more than two years from the date of the most recent tax year. If such  
7 error applies to property which has been sold or otherwise transferred  
8 subsequent to the time the error was made, no such additional assessment  
9 or tax bill shall be issued.

10 Errors committed in the valuation and assessment process that are not  
11 specifically described in K.S.A. 79-1701, and amendments thereto, shall  
12 be remediable only under the provisions of K.S.A. 79-2005, and  
13 amendments thereto.

14 Sec. 9. K.S.A. 79-304 and 79-1475 and K.S.A. 2011 Supp. 74-2433f,  
15 79-1448, 79-1460, 79-1609, 79-1701a and 79-1702 are hereby repealed.

16 Sec. 10. This act shall take effect and be in force from and after its  
17 publication in the statute book.