

SESSION OF 2016

**SECOND CONFERENCE COMMITTEE REPORT BRIEF
HOUSE SUBSTITUTE FOR SENATE BILL NO. 280**

As Agreed to May 1, 2016

Brief*

House Sub. for SB 280 would make a number of changes in law generally relating to property taxation.

One set of provisions in the bill would clarify the law governing the issuance and review of Board of Tax Appeals (BOTA) decisions. An aggrieved party would be authorized to file a petition for reconsideration after a full and complete opinion had been rendered. Also, an aggrieved party would be allowed to file a petition for review in the Kansas Court of Appeals after a full and complete BOTA opinion had been issued. Taxpayers also could appeal any summary decision or full and complete BOTA opinion by filing a petition for review in District Court. Tax appeals to District Court would be considered *de novo* trials with evidentiary hearings during which issues of law and fact would be determined anew. District Court reviews of BOTA orders relating to property valuation would be conducted by the court of the county in which the property in question is located.

Additional language would authorize the Department of Revenue's Director of Property Valuation to remove from the list of persons eligible to serve as county or district appraisers anyone failing to meet continuing education requirements established by the state; pleading guilty or *nolo contendere* or having been convicted of certain crimes; or having been the

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subject of a final civil judgment finding fraud, misrepresentation, or deceit in appraising property.

Another provision would raise the interest rate for delinquent real property taxes by five percent. Current law provides that the interest rate for delinquent property taxes is established at a foundation rate developed in KSA 2015 Supp. 79-2968 (a federally-determined underpayment rate plus one percent). The bill would raise the interest rate to the foundation rate plus an additional five percent.

The bill would prohibit tax liens' being filed against the owner or lessee of certain real property upon which abandoned or repossessed personal property was situated, provided such personal property had been assessed taxes that had not yet been paid. The bill would extinguish all tax liens on the owner or lessee acquiring this type of personal property, and the owner or lessee would not be liable for any property taxes owed prior to the date the personal property was acquired.

County treasurers would be required to check delinquent real property tax lists for the preceding seven years before allowing certain claims to be paid by counties.

New language would require production information used to establish the fair market value of producing oil and gas leases that have commenced production during the preceding calendar year be limited to production occurring prior to April 1 of the calendar year in which the property is assessed. Information used to establish the fair market value of any base lease or property producing oil and gas for the first time in economic quantities on and after October 1 of the preceding calendar year would be limited to production occurring prior to July 1 of the calendar year in which the property was being assessed.

The definition of "bed and breakfast" property defined as residential and eligible for the 11.5 percent assessment rate would be expanded to include property with 5 or fewer

bedrooms available for overnight guests who stay for not more than 28 consecutive days.

One additional section of the bill would grant the Blue Valley Unified School District the power to approve or modify the proposed budget of the Blue Valley Recreation Commission.

A property tax exemption would be provided for tax years 2016 to 2020 for property owned and primarily operated as an airport by a healthcare foundation also exempt for federal income tax purposes.

With respect to matters properly submitted to BOTA regarding property valuation, county appraisers would be required to demonstrate compliance with valuation methodologies developed by the Director of Property Valuation.

Appraisal procedures and standards utilized by county appraisers would no longer be required to be adaptable to mass appraisal. Moreover, appraisals produced by the computer-assisted mass appraisal system would no longer meet the definition of "written appraisal" pursuant to KSA 79-504.

County appraisers would be prohibited from requesting certain information from taxpayers, including appraisals conducted for the purpose of obtaining mortgage financing, fee appraisals conducted within the previous 12 months, and documents detailing certain lease agreements.

During informal meetings with taxpayers, county appraisers, or their designees, substantiating the valuation of property would be required to provide a summary of the reasons valuation had been increased, list all assumptions used in determining the value of the property, provide a description of the property characteristics, and all specific valuation records and conclusions. County appraisers at this time would be required to take into account all evidence

provided by taxpayers regarding deferred maintenance and depreciation of the property in question.

A taxpayer's classification of property as land devoted to agricultural use would be deemed valid when executed lease agreements or any other documentation is provided demonstrating a commitment to use the property for agricultural purposes, provided no other actual use of the property was evident.

At informal hearings involving valuation of property established by counties under computer-assisted mass appraisal, the results of independent market-based appraisals conducted within the previous three months by persons certified pursuant to KSA 2015 Supp. 58-4102 presented by taxpayers would be presumed to be correct and valid. Counties would have the option of appealing the results of such independent appraisals to BOTA.

For two years following a taxable year wherein the valuation of a parcel of commercial real property has been reduced due to the appeals process, county appraisers would be required to review the computer-assisted mass appraisal of the property and, under certain circumstances when such valuation has increased by more than five percent, adjust the value of the property based on information provided in the previous appeal, or order a certified independent fee appraisal.

Statutory language would be repealed that deems counties to be in compliance with a requirement to view and inspect all real estate parcels once every 6 years when 17 percent or more of the parcels have been viewed or inspected in any given year.

For parcels containing agricultural land and land used for suburban residential, rural home sites, or farm home sites, county appraisers would be required to disaggregate the portion devoted to agricultural use and value it separately.

For counties failing to meet certain minimum commercial appraisal standards, the Director of Property Valuation would be required to perform (or contract with an independent third party to perform) a market-based appraisal of at least one percent of commercial properties otherwise appraised under computer-assisted mass appraisal to test the accuracy of that system. The bill would require properties to be selected to represent a sample of commercial property types which failed to meet statistical compliance, and property owners of the selected commercial parcels would be allowed to meet with appraisers to offer pertinent data and insight on issues affecting valuation. If the quality assurance analysis reveals a statistical deviation of more than 5 percent on more than 25 percent of the audited properties, the Director would be required to perform additional audits and take any corrective action necessary to ensure fair and accurate appraisals.

Within 60 days after notice of informal meeting results or final determination of valuation has been mailed, aggrieved taxpayers who have not filed further appeals with BOTA would have the option of filing with their county appraisers certified fee-simple appraisals that reflect the valuation of the property in question as of January 1 of the tax year in question. County appraisers subsequently would be required to review and consider such appraisals prior to mailing supplemental notices of final determination of valuations within 90 days. County appraisers would face the burden of proof in disputing the fee-simple appraisal valuations and further would be required to explain the reasons such valuations were not utilized in the supplemental notices. Taxpayers aggrieved of the final valuations in such notices would have an additional 30 days to appeal to BOTA.

For all counties failing to meet minimum requirements for substantial appraisal compliance, the Director would be required to present the most recent sales-ratio study results, as well as the results of any subsequent audits, to boards of county commissioners in open meetings. Any such presentations would be required to include summary

information on the number of valuation protest and their outcomes.

Finally, an additional provision of the bill would require appraisers to publish the results of the annual market study analysis in both the the official county newspaper and on the official county website, if the county has an official county website. Current law only requires publication in the official county newspaper. The bill also would change the timing of publication from at least five business days prior to the mailing of valuation notices to at least ten business days prior to the mailing of the valuation notices.

Conference Committee Action

The Conference Committee on May 1 agreed to House amendments to the bill and agreed further to:

- Modify the duties of the Director relative to sampling commercial properties in counties not meeting certain standards;
- Adjust the procedures and duties of county appraisers when taxpayers have submitted fee-simple appraisals as part of the appeals process;
- Remove a requirement that certain boards of subordinate taxing subdivisions get prior approval relative to the setting of mill levies and replace such language with the section relating solely to the Blue Valley Recreation Commission; and
- Replace language authorizing counties to publish market study analyses on websites as an alternative to publication in official county newspapers with language from SB 359 that would retain the publication requirement in newspapers but would further mandate publication on websites, if available.

The second Conference Committee receded from the first Conference Committee report which had clarified that only property tax-related appeals from BOTA to District Court would be considered *de novo* trials.

Background

As approved by the Senate during the 2015 Session, the bill would have expanded local sales tax authority for two counties (provisions subsequently enacted in another bill).

The House Taxation Committee on March 18, 2016, stripped the bill of its prior contents, recommended a substitute bill be created, and inserted many of the aforementioned property tax provisions.

The House Committee of the Whole, on March 22, amended the substitute bill to clarify the duties of county appraisers under certain circumstances when the valuation of commercial property had been reduced pursuant to the appeals process; add provisions requiring the Director to perform quality assurance tests of commercial valuations for certain counties; add the option for taxpayers to obtain and submit certified fee-simple appraisals as part of the appeals process; and clarify the circumstances under which the Director would be required to present sales-ratio study results and other information to boards of county commissioners.

taxation; Property Tax; Board of Tax Appeals

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