

Senate Substitute for HOUSE BILL No. 2239

By Committee on Assessment and Taxation

3-26

1 AN ACT concerning income taxation; establishing the golden years
2 homestead property tax freeze act, providing residential property tax
3 refunds; collectively renaming homestead property relief as the golden
4 years homestead property tax freeze program; relating to corporations,
5 providing for an extension of the net operating loss carryforward
6 period; amending K.S.A. 79-32,143 and repealing the existing section.
7

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

9 New Section 1. The provisions of sections 1 through 17, and
10 amendments thereto, shall be known as and may be cited as the golden
11 years homestead property tax freeze act. The purpose of this act shall be to
12 provide refunds arising from increased ad valorem tax assessments to: (a)
13 Certain persons who are of qualifying age and who own their homesteads;
14 or (b) certain persons who have a disability as a result of military service
15 and who own their homesteads.

16 New Sec. 2. As used in sections 1 through 17, and amendments
17 thereto:

18 (a) "Act" means the golden years homestead property tax freeze act.

19 (b) "Base year" means the year in which an individual becomes an
20 eligible claimant and who is also eligible for a claim for refund pursuant to
21 section 16, and amendments thereto. For any individual who would
22 otherwise be an eligible claimant prior to 2019, such base year shall be
23 deemed to be 2019 for the purposes of this act. In the event an individual
24 is no longer an eligible claimant under this act, the individual shall
25 establish a new base year in the year that the individual becomes an
26 eligible claimant.

27 (c) "Claimant" means a person who has filed a claim under the
28 provisions of this act and was, during the entire calendar year preceding
29 the year in which such claim was filed for refund under this act, except as
30 provided in section 3, and amendments thereto, both domiciled in this state
31 and was: (1) A person who is 65 years of age or older; or (2) a disabled
32 veteran. The surviving spouse of a person 65 years of age or older or a
33 disabled veteran who was receiving benefits pursuant to this section at the
34 time of the claimant's death, shall be eligible to continue to receive
35 benefits until such time the surviving spouse remarries.

36 (d) "Disabled veteran" means a person who is a resident of Kansas

1 and has been honorably discharged from active service in any branch of
2 the armed forces of the United States or the Kansas national guard and
3 who has been certified by the United States department of veterans affairs
4 or its successor to have a 50% or greater permanent disability sustained
5 through military action or accident or resulting from a disease contracted
6 while in such active service.

7 (e) "Homestead" means the dwelling, or any part thereof, owned and
8 occupied as a residence by the household and so much of the land
9 surrounding it, as defined as a home site for ad valorem tax purposes, and
10 may consist of a part of a multi-dwelling or multi-purpose building and a
11 part of the land upon which it is built or a manufactured home or mobile
12 home and the land upon which it is situated. "Owned" includes one or
13 more joint tenants or tenants in common.

14 When a homestead is occupied by two or more individuals and more
15 than one of the individuals is able to qualify as a claimant, the individuals
16 may determine between them as to who the claimant will be. If they are
17 unable to agree, the matter shall be referred to the secretary of revenue,
18 whose decision shall be final.

19 (f) "Household" means a claimant, a claimant and spouse who occupy
20 the homestead or a claimant and one or more individuals not related as
21 married individuals who together occupy a homestead.

22 (g) "Household income" means all income received by all persons of
23 a household in a calendar year while members of such household.

24 (h) "Income" means the sum of adjusted gross income under the
25 Kansas income tax act effective for tax year 2020, and tax years thereafter,
26 without regard to any maintenance, support money, cash public assistance
27 and relief, not including any refund granted under this act, the gross
28 amount of any pension or annuity, including all monetary retirement
29 benefits from whatever source derived, including, but not limited to, all
30 payments received under the railroad retirement act, except disability
31 payments, payments received under the federal social security act, except
32 that for determination of what constitutes income, such amount shall not
33 exceed 50% of any such social security payments and shall not include any
34 social security payments to a claimant who, prior to attaining full
35 retirement age, had been receiving disability payments under the federal
36 social security act in an amount not to exceed the amount of such disability
37 payments or 50% of any such social security payments, whichever is
38 greater, all dividends and interest from whatever source derived not
39 included in adjusted gross income, workers compensation and the gross
40 amount of loss of time insurance. Income does not include gifts from
41 nongovernmental sources or surplus food or other relief in kind supplied
42 by a governmental agency, nor shall net operating losses and net capital
43 losses be considered in the determination of income. Income does not

1 include veterans disability pensions or disability payments received under
2 the federal social security act.

3 (i) "Property taxes accrued" means property taxes, exclusive of
4 special assessments, delinquent interest and charges for service, levied on
5 a claimant's homestead in 2019 or any calendar year thereafter by the state
6 of Kansas and the political and taxing subdivisions of the state. When a
7 homestead is owned by two or more persons or entities as joint tenants or
8 tenants in common and one or more of the persons or entities is not a
9 member of the claimant's household, "property taxes accrued" is that part
10 of property taxes levied on the homestead that reflects the ownership
11 percentage of the claimant's household. For purposes of this act, property
12 taxes are levied when the tax roll is delivered to the local treasurer with the
13 treasurer's warrant for collection. When a claimant and household own
14 their homestead for only a part of a calendar year, "property taxes accrued"
15 means only taxes levied on the homestead when both owned and occupied
16 as a homestead by the claimant's household at the time of the levy,
17 multiplied by the percentage of 12 months that the property was owned
18 and occupied by the household as its homestead in that year. When a
19 household owns and occupies two or more different homesteads in the
20 same calendar year, property taxes accrued shall be the sum of the taxes
21 allocable to those several properties while occupied by the household as its
22 homesteads during the year. Whenever a homestead is an integral part of a
23 larger unit such as a multi-purpose or multi-dwelling building, property
24 taxes accrued shall be that percentage of the total property taxes that is
25 equal to the percentage of the value of the homestead compared to the total
26 unit's value. For the purpose of this act, the word "unit" refers to that
27 parcel of property covered by a single tax statement of which the
28 homestead is a part.

29 New Sec. 3. The right to file a claim under this act may be exercised
30 on behalf of a claimant by such person's legal guardian, conservator or
31 attorney-in-fact. When a claimant dies after having filed a timely claim,
32 the amount thereof shall be disbursed to another member of the household
33 as determined by the director of taxation. If the claimant was the only
34 member of such person's household, the claim may be paid to such
35 person's executor or administrator, but if neither is appointed and qualified,
36 the amount of the claim may be paid upon a claim duly made to any heir at
37 law. In the absence of any such claim within two years of the filing of the
38 claim, the amount of the claim shall escheat to the state. When a person
39 who would otherwise be entitled to file a claim under the provisions of this
40 act dies prior to filing such claim, another member of such person's
41 household may file such claim in the name of such decedent, subject to the
42 deadline prescribed by section 5, and amendments thereto, and the director
43 shall pay the amount to which the decedent would have been entitled to

1 such person filing the claim. If the decedent was the only member of such
2 person's household, the decedent's executor or administrator may file such
3 claim in the name of the decedent, and the claim shall be paid to the
4 executor or administrator. In the event that neither an executor or
5 administrator is appointed and qualified, such claim may be made by any
6 heir at law and the claim shall be payable to such heir at law. Any of the
7 foregoing provisions shall be applicable in any case where the decedent
8 dies in the calendar year preceding the year in which a claim may be made
9 under the provisions of this act, if such decedent was a resident of or
10 domiciled in this state during the entire part of such year that such
11 decedent was living. Where the decedent's death occurs during the
12 calendar year preceding the year in which a claim may be made, the
13 amount of the claim that would have been allowable if the decedent had
14 been a resident of or domiciled in this state the entire calendar year of such
15 person's death shall be reduced in a proportionate amount equal to a
16 fraction of the claim otherwise allowable, the numerator of which fraction
17 is the number of months in such calendar year following the month of the
18 decedent's death, and the denominator of which is 12.

19 New Sec. 4. A claimant may claim property tax relief under this act
20 with respect to property taxes accrued and, after audit by the director of
21 taxation with respect to this act, the allowable amount of such claim shall
22 be paid, except as otherwise provided in sections 6, 15 and 17, and
23 amendments thereto, to the claimant from the income tax refund fund upon
24 warrants of the director of accounts and reports pursuant to vouchers
25 approved by the director of taxation or by any person designated by the
26 claimant, but no warrant issued shall be drawn in an amount of less than
27 \$5. No interest shall be allowed on any payment made to a claimant
28 pursuant to this act.

29 New Sec. 5. Except as provided in section 14, and amendments
30 thereto: (a) For tax year 2020, no claim shall be paid or allowed unless
31 such claim is filed with and in the possession of the department of revenue
32 on or before April 15, 2022; and (b) for tax year 2021, and all tax years
33 thereafter, no claim in respect of property taxes levied in any year shall be
34 paid or allowed unless such claim is filed with and in the possession of the
35 department of revenue on or before April 15 of the year next succeeding
36 the year in which such taxes were levied.

37 New Sec. 6. The amount of any claim otherwise payable under this
38 act may be applied by the director of taxation against any liability
39 outstanding on the books of the department of revenue against the
40 claimant, or against any other individual who was a member of such
41 person's household in the year that the claim relates.

42 New Sec. 7. Only one claimant per household per year shall be
43 entitled to relief under this act.

1 New Sec. 8. (a) Commencing in tax year 2020, and all tax years
2 thereafter, the amount of any claim pursuant to this act shall be computed
3 by deducting the homestead ad valorem tax amount in the tax year the
4 refund is sought from the amount of a claimant's base year homestead ad
5 valorem tax amount.

6 (b) The amount of claim shall be computed only to the nearest \$1.

7 (c) A taxpayer shall not be eligible for a claim pursuant to this act if
8 such taxpayer has received for such property for such tax year either: (1) A
9 homestead property tax refund pursuant to K.S.A. 79-4501 et seq., and
10 amendments thereto; or (2) the selective assistance for effective senior
11 relief (SAFESR) credit pursuant to K.S.A. 79-32,263, and amendments
12 thereto.

13 (d) The maximum amount of a claim that may be claimed by a
14 claimant in any one tax year pursuant to this act shall be \$2,500.

15 New Sec. 9. (a) In administering this act, the director of taxation shall
16 make available suitable forms with instructions for claimants. Copies of
17 such forms shall also be made available to all county clerks and county
18 treasurers in sufficient numbers to supply claimants residing in their
19 respective counties. It shall be the duty of the county clerk to assist any
20 claimant seeking assistance in the filing of a claim under the provisions of
21 this act. The county treasurer of each county shall mail to each taxpayer,
22 with the property tax statement of such taxpayer, information on eligibility
23 for relief under this act to be provided by the secretary of revenue.

24 (b) The secretary of revenue is hereby authorized to adopt such rules
25 and regulations as may be necessary for the administration of the
26 provisions of this act.

27 New Sec. 10. (a) Every claimant under this act shall supply to the
28 director of taxation, in support of a claim, reasonable proof of age and
29 changes of homestead, household membership, household income,
30 household assets and size and nature of property claimed as the
31 homestead.

32 (b) Every claimant who is a homestead owner, or whose claim is
33 based wholly or partly upon homestead ownership at some time during the
34 calendar year, shall supply to the director of taxation, in support of a claim,
35 the amount of property taxes levied upon the property claimed as a
36 homestead and a statement that the property taxes accrued used for
37 purposes of this act have been or will be paid by the claimant. Upon
38 request by the director, such claimant shall provide a copy of the statement
39 of property taxes levied upon the property claimed as a homestead. The
40 amount of personal property taxes levied on a manufactured home or
41 mobile home shall be set out on the personal property tax statement
42 showing the amount of such tax as a separate item.

43 (c) The information required to be furnished under subsection (b)

1 shall be in addition to that required under subsection (a).

2 New Sec. 11. In any case in which it is determined that a claim is or
3 was excessive and was filed with fraudulent intent, the claim shall be
4 disallowed in full, and, if the claim has been paid, the amount paid may be
5 recovered by assessment as income taxes are assessed, and such
6 assessment shall bear interest from the date of payment or credit of the
7 claim, until recovered, at the rate of 1% per month. The claimant in such
8 case and any person who assisted in the preparation or filing of such
9 excessive claim, or supplied information upon which such excessive claim
10 was prepared, with fraudulent intent, shall be guilty of a class B
11 misdemeanor. In any case in which it is determined that a claim is or was
12 excessive and was negligently prepared, 10% of the corrected claim shall
13 be disallowed, and, if the claim has been paid, the proper portion of any
14 amount paid shall be similarly recovered by assessment as income taxes
15 are assessed, and such assessment shall bear interest at the rate of 1% per
16 month from the date of payment until recovered. In any case in which it is
17 determined that a claim is or was excessive due to the fact that the
18 claimant neglected to include certain income received during the year, the
19 claim shall be corrected and the excess disallowed, and, if the claim has
20 been paid, the proper portion of any amount paid shall be similarly
21 recovered by assessment as income taxes are assessed.

22 New Sec. 12. No claim for relief under the provisions of this act shall
23 be allowed to any claimant who is a recipient of public funds specifically
24 designated for the payment of taxes during the period for which the claim
25 is filed.

26 New Sec. 13. A claim shall be disallowed if the director of taxation
27 finds that the claimant received title to such person's homestead primarily
28 for the purpose of receiving benefits under this act.

29 New Sec. 14. For claims in respect to property taxes levied in any
30 year, the director of taxation may extend the time for filing any claim or
31 accept a claim filed after the filing deadline when good cause exists, if the
32 claim has been filed within four years of the deadline.

33 New Sec. 15. (a) The director of taxation shall issue to the county
34 clerk by October 1 of each year an electronic record containing the name
35 of each eligible claimant who received a refund of property taxes under
36 this act for the prior year.

37 (b) When initially filing a claim under this act, the claimant shall be
38 given an election to receive such refund directly from the director of
39 taxation or have such refund applied to the claimant's ad valorem taxes in
40 the county. The claimant shall make the election on a form supplied by the
41 director of taxation. Such refund shall not be applied to any special
42 assessment.

43 (c) After the electronic record under subsection (a) has been received

1 from the director of taxation, the county clerk of the county in which the
2 property is located shall make any corrections needed, if any, based upon
3 information known by the county clerk concerning any change in
4 eligibility of any claimant listed in such record. After any needed
5 corrections have been made to the electronic record, the county clerk, on
6 behalf of each claimant listed in such record, shall certify the information
7 contained in such record to the county treasurer in lieu of paying that
8 portion of the first half of taxes on the claimant's homestead in the current
9 year, which equals the amount of the golden years homestead property tax
10 freeze refund received by the claimant for taxes levied in the preceding
11 year up to the amount of the first half of the property taxes due.

12 (d) The county treasurer shall certify and return the electronic record
13 referred to in subsection (a), including any changes made by the county
14 clerk pursuant to subsection (c), to the director of taxation by December 31
15 of each year. After receiving a claim of any claimant who is listed in the
16 electronic record submitted by the county treasurer, the director shall
17 examine the same, and, if the claim is valid, the director of accounts and
18 reports shall draw a warrant in favor of the county in which the claimant's
19 homestead is located upon a voucher approved by the director of taxation
20 in the amount of the allowable claim for refund. Sufficient information to
21 identify the claimant shall be directed to the county treasurer with each
22 warrant. Any taxes levied in any year on the homestead of any claimant
23 who has obtained the eligibility herein provided for in excess of the
24 amount paid to the county by the state and by the claimant on or before
25 December 20 of such year shall be paid by the claimant on or before May
26 10 of the succeeding year.

27 (e) For the purposes of this section, "electronic record" means the
28 same as defined in K.S.A. 16-1602, and amendments thereto.

29 New Sec. 16. A claimant shall only be eligible for a claim for refund
30 under this act if: (a) The household income for the year in which the claim
31 is filed is \$75,000 or less; and (b) the appraised value of the homestead is
32 \$485,000 or less. In the case of all tax years commencing after December
33 31, 2020, the upper limit household income threshold amount prescribed
34 in this subsection shall be increased by an amount equal to such threshold
35 amount multiplied by the cost-of-living adjustment determined under
36 section 1(f)(3) of the federal internal revenue code for the calendar year in
37 which the taxable year commences.

38 New Sec. 17. If there are delinquent property taxes on the claimant's
39 homestead, the refund shall be paid to the county treasurer of the county in
40 which such homestead is located and applied first to the oldest of such
41 delinquent property taxes and applied forward to the most recent
42 delinquent property taxes and then to any other property taxes due on the
43 claimant's homestead.

1 New Sec. 18. K.S.A. 79-4501 through 79-4531 and 79-32,263, and
2 amendments thereto, and sections 1 through 18, and amendments thereto,
3 shall be collectively known and may be cited as the golden years
4 homestead property tax freeze program.

5 Sec. 19. K.S.A. 79-32,143 is hereby amended to read as follows: 79-
6 32,143. (a) (1) (A) For net operating losses incurred in taxable years
7 ~~beginning after December 31, 1987, prior to January 1, 2018,~~ a net
8 operating loss deduction shall be allowed in the same manner that it is
9 allowed under the federal internal revenue code, except that such net
10 operating loss may only be carried forward to each of the 10 taxable years
11 following the taxable year of the net operating loss.

12 (B) *For net operating losses incurred in taxable years beginning*
13 *after December 31, 2017, a net operating loss deduction shall be allowed*
14 *in the same manner that it is allowed under the federal internal revenue*
15 *code, except that such net operating loss deduction may only be carried*
16 *forward.*

17 (2) For net operating farm losses, as defined by ~~subsection (i) of~~
18 section 172 of the federal internal revenue code, incurred in taxable years
19 beginning after December 31, 1999, a net operating loss deduction shall be
20 allowed in the same manner that it is allowed under the federal internal
21 revenue code except that such net operating loss may be carried forward to
22 each of the 10 taxable years following the taxable year of the net operating
23 loss.

24 (3) The amount of the net operating loss that may be carried back or
25 forward for Kansas income tax purposes shall be that portion of the federal
26 net operating loss allocated to Kansas under this act in the taxable year that
27 the net operating loss is sustained.

28 (b) The amount of the loss to be carried back or forward will be the
29 federal net operating loss after: (1) All modifications required under this
30 act applicable to the net loss in the year the loss was incurred; and (2) after
31 apportionment as to source in the case of corporations, nonresident
32 individuals for losses incurred in taxable years beginning prior to January
33 1, 1978, and nonresident estates and trusts in the same manner that income
34 for such corporations, nonresident individuals, estates and trusts is
35 required to be apportioned.

36 (c) If a net operating loss was incurred in a taxable year beginning
37 prior to January 1, 1988, the amount of the net operating loss that may be
38 carried back and carried forward and the period for which it may be
39 carried back and carried forward shall be determined under the provisions
40 of the Kansas income tax laws ~~which~~ that were in effect during the year
41 that such net operating loss was incurred.

42 (d) If any portion of a net operating loss described in subsections (a)
43 and (b) is not utilized prior to the final year of the carryforward period

1 provided in subsection (a), a refund shall be allowable in such final year in
2 an amount equal to the refund which would have been allowable in the
3 taxable year the loss was incurred by utilizing the three year carryback
4 provided under K.S.A. 79-32,143, as in effect on December 31, 1987,
5 multiplied by a fraction, the numerator of which is the unused portion of
6 such net operating loss in the final year, and the denominator of which is
7 the amount of such net operating loss ~~which~~ *that* could have been carried
8 back to the three years immediately preceding the year in which the loss
9 was incurred. In no event may such fraction exceed ~~+~~ *one*.

10 (e) Notwithstanding any other provisions of the Kansas income tax
11 act, the net operating loss as computed under subsections (a), (b) and (c) ~~of~~
12 ~~this section~~ shall be allowed in full in determining Kansas taxable income
13 or at the option of the taxpayer allowed in full in determining Kansas
14 adjusted gross income.

15 (f) No refund of income tax ~~which~~ *that* results from a net operating
16 farm loss carry back shall be allowed in an amount exceeding \$1,500 in
17 any year. Any overpayment in excess of \$1,500 may be carried forward to
18 any year or years after the year of the loss and may be claimed as a credit
19 against the tax. The refundable portion of such credit shall not exceed
20 \$1,500 in any year.

21 (g) For tax year 2013, and all tax years thereafter, a net operating loss
22 allowed by this section shall only be available to taxpayers subject to the
23 income tax on corporations imposed pursuant to ~~subsection (e) of~~ K.S.A.
24 79-32,110(c), and amendments thereto, and used only to determine such
25 taxpayer's corporate income tax liability.

26 Sec. 20. K.S.A. 79-32,143 is hereby repealed.

27 Sec. 21. This act shall take effect and be in force from and after its
28 publication in the statute book.