

HOUSE BILL No. 2328

By Representatives Sawyer, Ballard, Carlin, Davis, Finney, Grant, Henderson,
Houston, Kuether, Menghini, Pauls, Trimmer, Victors, Weigel, Whipple, Wilson
and Winn

2-13

1 AN ACT concerning taxation; providing homestead property tax refunds
2 for renters; amending K.S.A. 2012 Supp. 79-4501, 79-4502, 79-4508,
3 79-4509, 79-4511 and 79-4522 and repealing the existing sections.

4

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

6 Section 1. K.S.A. 2012 Supp. 79-4501 is hereby amended to read as
7 follows: 79-4501. The title of this act shall be the homestead property tax
8 refund act. The purpose of this act shall be to provide ad valorem tax
9 refunds to: (a) Certain persons who are of qualifying age who own *or rent*
10 their homestead; (b) certain persons who have a disability, who own *or*
11 *rent* their homestead; and (c) certain persons other than persons included
12 under the provisions of (a) or (b) who have low incomes and dependent
13 children and own *or rent* their homestead.

14 Sec. 2. K.S.A. 2012 Supp. 79-4502 is hereby amended to read as
15 follows: 79-4502. As used in this act, unless the context clearly indicates
16 otherwise:

17 (a) "Income" means the sum of adjusted gross income under the
18 Kansas income tax act, maintenance, support money, cash public
19 assistance and relief, not including any refund granted under this act, the
20 gross amount of any pension or annuity, including all monetary retirement
21 benefits from whatever source derived, including but not limited to, all
22 payments received under the railroad retirement act, except disability
23 payments, payments received under the federal social security act, except
24 that for determination of what constitutes income such amount shall not
25 exceed 50% of any such social security payments and shall not include any
26 social security payments to a claimant who prior to attaining full
27 retirement age had been receiving disability payments under the federal
28 social security act in an amount not to exceed the amount of such disability
29 payments or 50% of any such social security payments, whichever is
30 greater, all dividends and interest from whatever source derived not
31 included in adjusted gross income, workers compensation and the gross
32 amount of "loss of time" insurance. Income does not include gifts from
33 nongovernmental sources or surplus food or other relief in kind supplied
34 by a governmental agency, nor shall net operating losses and net capital

1 losses be considered in the determination of income. Income does not
2 include veterans disability pensions. Income does not include disability
3 payments received under the federal social security act.

4 (b) "Household" means a claimant, a claimant and spouse who
5 occupy the homestead or a claimant and one or more individuals not
6 related as husband and wife who together occupy a homestead.

7 (c) "Household income" means all income received by all persons of
8 a household in a calendar year while members of such household.

9 (d) "Homestead" means the dwelling, or any part thereof, *whether*
10 ~~owned and~~ *or rented, which is* occupied as a residence by the household
11 and so much of the land surrounding it, as defined as a home site for ad
12 valorem tax purposes, and may consist of a part of a multi-dwelling or
13 multi-purpose building and a part of the land upon which it is built or a
14 manufactured home or mobile home and the land upon which it is situated.
15 "Owned" includes a vendee in possession under a land contract, a life
16 tenant, a beneficiary under a trust and one or more joint tenants or tenants
17 in common.

18 (e) "Claimant" means a person who has filed a claim under the
19 provisions of this act and was, during the entire calendar year preceding
20 the year in which such claim was filed for refund under this act, except as
21 provided in K.S.A. 79-4503, and amendments thereto, both domiciled in
22 this state and was: (1) A person having a disability; (2) a person who is 55
23 years of age or older; (3) a disabled veteran; (4) the surviving spouse of
24 active duty military personnel who died in the line of duty; or (5) a person
25 other than a person included under (1), (2), (3) or (4) having one or more
26 dependent children under 18 years of age residing at the person's
27 homestead during the calendar year immediately preceding the year in
28 which a claim is filed under this act. The surviving spouse of a disabled
29 veteran who was receiving benefits pursuant to subsection (e)(3) of this
30 section at the time of the veterans' death, shall be eligible to continue to
31 receive benefits until such time the surviving spouse remarries.

32 When a homestead is occupied by two or more individuals and more
33 than one of the individuals is able to qualify as a claimant, the individuals
34 may determine between them as to whom the claimant will be. If they are
35 unable to agree, the matter shall be referred to the secretary of revenue
36 whose decision shall be final.

37 (f) "Property taxes accrued" means property taxes, exclusive of
38 special assessments, delinquent interest and charges for service, levied on
39 a claimant's homestead in 1979 or any calendar year thereafter by the state
40 of Kansas and the political and taxing subdivisions of the state. When a
41 homestead is owned by two or more persons or entities as joint tenants or
42 tenants in common and one or more of the persons or entities is not a
43 member of claimant's household, "property taxes accrued" is that part of

1 property taxes levied on the homestead that reflects the ownership
2 percentage of the claimant's household. For purposes of this act, property
3 taxes are "levied" when the tax roll is delivered to the local treasurer with
4 the treasurer's warrant for collection. When a claimant and household own
5 their homestead part of a calendar year, "property taxes accrued" means
6 only taxes levied on the homestead when both owned and occupied as a
7 homestead by the claimant's household at the time of the levy, multiplied
8 by the percentage of 12 months that the property was owned and occupied
9 by the household as its homestead in the year. When a household owns and
10 occupies two or more different homesteads in the same calendar year,
11 property taxes accrued shall be the sum of the taxes allocable to those
12 several properties while occupied by the household as its homestead
13 during the year. Whenever a homestead is an integral part of a larger unit
14 such as a multi-purpose or multi-dwelling building, property taxes accrued
15 shall be that percentage of the total property taxes accrued as the value of
16 the homestead is of the total value. For the purpose of this act, the word
17 "unit" refers to that parcel of property covered by a single tax statement of
18 which the homestead is a part.

19 (g) "Disability" means:

20 (1) Inability to engage in any substantial gainful activity by reason of
21 any medically determinable physical or mental impairment which can be
22 expected to result in death or has lasted or can be expected to last for a
23 continuous period of not less than 12 months, and an individual shall be
24 determined to be under a disability only if the physical or mental
25 impairment or impairments are of such severity that the individual is not
26 only unable to do the individual's previous work but cannot, considering
27 age, education and work experience, engage in any other kind of
28 substantial gainful work which exists in the national economy, regardless
29 of whether such work exists in the immediate area in which the individual
30 lives or whether a specific job vacancy exists for the individual, or whether
31 the individual would be hired if application was made for work. *With*
32 *respect to any individual*, for purposes of the preceding sentence (~~with~~
33 ~~respect to any individual~~), "work which exists in the national economy"
34 means work which exists in significant numbers either in the region where
35 the individual lives or in several regions of the country; for purposes of
36 this subsection, a "physical or mental impairment" is an impairment that
37 results from anatomical, physiological or psychological abnormalities
38 which are demonstrable by medically acceptable clinical and laboratory
39 diagnostic techniques; or

40 (2) blindness and inability by reason of blindness to engage in
41 substantial gainful activity requiring skills or abilities comparable to those
42 of any gainful activity in which the individual has previously engaged with
43 some regularity and over a substantial period of time.

1 (h) "Blindness" means central visual acuity of $^{20}/_{200}$ or less in the
 2 better eye with the use of a correcting lens. An eye which is accompanied
 3 by a limitation in the fields of vision such that the widest diameter of the
 4 visual field subtends an angle no greater than 20 degrees shall be
 5 considered for the purpose of this paragraph as having a central visual
 6 acuity of $^{20}/_{200}$ or less.

7 (i) "Disabled veteran" means a person who is a resident of Kansas
 8 and has been honorably discharged from active service in any branch of
 9 the armed forces of the United States or Kansas national guard and who
 10 has been certified by the United States department of veterans affairs or its
 11 successor to have a 50% permanent disability sustained through military
 12 action or accident or resulting from disease contracted while in such active
 13 service.

14 (j) *"Gross rent" means the rental paid at arm's length solely for the*
 15 *right of occupancy of a homestead or space rental paid to a landlord for*
 16 *the parking of a mobile home, exclusive of charges for any utilities,*
 17 *services, furniture and furnishings or personal property appliances*
 18 *furnished by the landlord as a part of the rental agreement, whether or not*
 19 *expressly set out in the rental agreement. Whenever the director of*
 20 *taxation finds that the landlord and tenant have not dealt with each other*
 21 *at arm's length and that the gross rent charge was excessive, the director*
 22 *may adjust the gross rent to a reasonable amount for the purpose of the*
 23 *claim.*

24 (k) *"Rent constituting property taxes accrued" means 15% of the*
 25 *gross rent actually paid in cash or its equivalent in 2013 or any taxable*
 26 *year thereafter by a claimant and claimant's household solely for the right*
 27 *of occupancy of a Kansas homestead on which ad valorem property taxes*
 28 *were levied in full for that year. When a household occupies two or more*
 29 *different homesteads in the same calendar year, rent constituting property*
 30 *taxes accrued shall be computed by adding the rent constituting property*
 31 *taxes accrued for each property rented by the household while occupied*
 32 *by the household as its homestead during the year.*

33 Sec. 3. K.S.A. 2012 Supp. 79-4508 is hereby amended to read as
 34 follows: 79-4508. (a) Commencing in the tax year beginning after
 35 December 31, 2005, the amount of any claim pursuant to this act shall be
 36 computed by deducting the amount computed under column (2) from the
 37 amount of claimant's property tax accrued *or rent constituting property tax*
 38 *accrued, or both.*

	(1)		(2)
	Claimants household		Deduction from property tax accrued
	income		<i>or rent constituting property</i>
			<i>tax accrued, or both</i>

1		But not	
2	At least	more than	
3	\$0	\$6,000	\$0
4	6,001	7,000	4%
5	7,001	16,000	4% plus 4% of every \$1,000, or
6			fraction thereof, of income in
7			excess of \$7,001
8	16,001	27,000	40% plus 5% of every \$1,000,
9			or fraction thereof, of income in
10			excess of \$16,001
11	27,001	27,600	95%
12			

13 (b) The director of taxation shall prepare a table under which claims
 14 under this act shall be determined. The amount of claim for each bracket
 15 shall be computed only to the nearest \$1.

16 (c) The claimant may elect not to record the amount claimed on the
 17 claim. The claim allowable to persons making this election shall be
 18 computed by the department which shall notify the claimant by mail of the
 19 amount of the allowable claim.

20 (d) ~~In the case of all tax years commencing after December 31, 2004,~~
 21 The upper limit threshold amount prescribed in this section, shall be
 22 increased by an amount equal to such threshold amount multiplied by the
 23 cost-of-living adjustment determined under section 1(f)(3) of the federal
 24 internal revenue code for the calendar year in which the taxable year
 25 commences.

26 Sec. 4. K.S.A. 2012 Supp. 79-4509 is hereby amended to read as
 27 follows: 79-4509. In the event property taxes accrued *or rent constituting*
 28 *property tax accrued, or the sum of both*, exceeds \$700 for a household in
 29 any one year, the amount thereof shall, for purposes of this act, be deemed
 30 to have been \$700.

31 Sec. 5. K.S.A. 2012 Supp. 79-4511 is hereby amended to read as
 32 follows: 79-4511. (a) Every claimant under this act shall supply to the
 33 division, in support of a claim, reasonable proof of age or disability, and
 34 changes of homestead, household membership, household income, and
 35 size and nature of property claimed as the homestead. A claim alleging
 36 disability shall be supported by a report of the examining physician of the
 37 claimant with a statement or certificate that the applicant has a disability
 38 within the meaning of subsection (g) of K.S.A. 79-4502, and amendments
 39 thereto.

40 (b) Every claimant who is a homestead owner, or whose claim is
 41 based wholly or partly upon homestead ownership at some time during the
 42 calendar year, shall supply to the division, in support of a claim, the
 43 amount of property taxes levied upon the property claimed as a homestead

1 and a statement that the property taxes accrued used for purposes of this
2 act have been or will be paid by the claimant. Upon request by the
3 division, such claimant shall provide a copy of the statement of property
4 taxes levied upon the property claimed as a homestead. The amount of
5 personal property taxes levied on a manufactured home or mobile home
6 shall be set out on the personal property tax statement showing the amount
7 of such tax as a separate item.

8 (c) *Every claimant who is a homestead renter, or whose claim is*
9 *based wholly or partly upon homestead rental at some time during the*
10 *calendar year, shall supply to the division, in support of a claim, a*
11 *statement prescribed by the director certifying the amount of gross rent*
12 *paid and that ad valorem property taxes were levied in full for that year on*
13 *the property, all or a part of which was rented by the claimant. When such*
14 *claimant reports household income that is 150% or less of the homestead*
15 *rental amount and such claimant has failed to provide any documentation*
16 *or information requested by the division to verify such household income*
17 *in support of a claim as required pursuant to subsection (a), within 30*
18 *days of such request, such homestead property tax refund claim shall be*
19 *denied.*

20 (d) The information required to be furnished under subsection (b) or
21 (c) shall be in addition to that required under subsection (a).

22 Sec. 6. K.S.A. 2012 Supp. 79-4522 is hereby amended to read as
23 follows: 79-4522. A person owning or occupying a homestead *that is not*
24 *rental property and* for which the appraised valuation for property tax
25 purposes exceeds \$350,000 in any year shall not be entitled to claim a
26 refund of property taxes under the homestead property tax refund act for
27 any such year. The provisions of this section shall be part of and
28 supplemental to the homestead property tax refund act.

29 Sec. 7. K.S.A. 2012 Supp. 79-4501, 79-4502, 79-4508, 79-4509, 79-
30 4511 and 79-4522 are hereby repealed.

31 Sec. 8. This act shall take effect and be in force from and after its
32 publication in the Kansas register.