

HOUSE BILL No. 2445

By Committee on Taxation

3-19

1 AN ACT concerning property taxation; relating to exemptions; providing
2 for an exemption for health clubs; amending K.S.A. 79-201 and
3 repealing the existing section.
4

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

6 Section 1. K.S.A. 79-201 is hereby amended to read as follows: 79-
7 201. The following described property, to the extent herein specified, shall
8 be and is hereby exempt from all property or ad valorem taxes levied
9 under the laws of the state of Kansas:

10 *First.* All buildings used exclusively as places of public worship and all
11 buildings used exclusively by school districts and school district interlocal
12 cooperatives organized under the laws of this state, with the furniture and
13 books therein contained and used exclusively for the accommodation of
14 religious meetings or for school district or school district interlocal
15 cooperative purposes, whichever is applicable, together with the grounds
16 owned thereby if not leased or otherwise used for the realization of profit,
17 except that: (a) (1) Any school building, or portion thereof, together with
18 the grounds upon which the building is located, shall be considered to be
19 used exclusively by the school district for the purposes of this section
20 when leased by the school district to any political or taxing subdivision of
21 the state, including a school district interlocal cooperative, or to any
22 association, organization or nonprofit corporation entitled to tax exemption
23 with respect to such property; and (2) any school building, together with
24 the grounds upon which the building is located, shall be considered to be
25 used exclusively by a school district interlocal cooperative for the
26 purposes of this section when being acquired pursuant to a lease-purchase
27 agreement; and (b) any building, or portion thereof, used as a place of
28 worship, together with the grounds upon which the building is located,
29 shall be considered to be used exclusively for the religious purposes of this
30 section when used as a not-for-profit day care center for children which is
31 licensed pursuant to K.S.A. 65-501 et seq., and amendments thereto, or
32 when used to house an area where the congregation of a church society
33 and others may purchase tracts, books and other items relating to the
34 promulgation of the church society's religious doctrines.

35 *Second.* All real property, and all tangible personal property, actually
36 and regularly used exclusively for literary, educational, scientific,

1 religious, benevolent or charitable purposes, including property used
2 exclusively for such purposes by more than one agency or organization for
3 one or more of such exempt purposes. Except with regard to real property
4 which is owned by a religious organization, is to be used exclusively for
5 religious purposes and is not used for a nonexempt purpose prior to its
6 exclusive use for religious purposes which property shall be deemed to be
7 actually and regularly used exclusively for religious purposes for the
8 purposes of this paragraph, this exemption shall not apply to such property,
9 not actually used or occupied for the purposes set forth herein, nor to such
10 property held or used as an investment even though the income or rentals
11 received therefrom is used wholly for such literary, educational, scientific,
12 religious, benevolent or charitable purposes. In the event any such
13 property which has been exempted pursuant to the preceding sentence is
14 not used for religious purposes prior to its conveyance which results in its
15 use for nonreligious purposes, there shall be a recoupment of property
16 taxes in an amount equal to the tax which would have been levied upon
17 such property except for such exemption for all taxable years for which
18 such exemption was in effect. Such recoupment tax shall become due and
19 payable in such year as provided by K.S.A. 79-2004, and amendments
20 thereto. A lien for such taxes shall attach to the real property subject to the
21 same on November 1 in the year such taxes become due and all such taxes
22 remaining due and unpaid after the date prescribed for the payment thereof
23 shall be collected in the manner provided by law for the collection of
24 delinquent taxes. Moneys collected from the recoupment tax hereunder
25 shall be credited by the county treasurer to the several taxing subdivisions
26 within which such real property is located in the proportion that the total
27 tangible property tax levies made in the preceding year for each such
28 taxing subdivision bear to the total of all such levies made in that year by
29 all such taxing subdivisions. Such moneys shall be credited to the general
30 fund of the taxing subdivision or if such taxing subdivision is making no
31 property tax levy for the support of a general fund such moneys may be
32 credited to any other tangible property tax fund of general application of
33 such subdivision. This exemption shall not be deemed inapplicable to
34 property which would otherwise be exempt pursuant to this paragraph
35 because an agency or organization: (a) Is reimbursed for the provision of
36 services accomplishing the purposes enumerated in this paragraph based
37 upon the ability to pay by the recipient of such services; or (b) is
38 reimbursed for the actual expense of using such property for purposes
39 enumerated in this paragraph; or (c) uses such property for a nonexempt
40 purpose which is minimal in scope and insubstantial in nature if such use
41 is incidental to the exempt purposes of this paragraph; or (d) charges a
42 reasonable fee for admission to cultural or educational activities or permits
43 the use of its property for such activities by a related agency or

1 organization, if any such activity is in furtherance of the purposes of this
2 paragraph; or (e) is applying for an exemption pursuant to this paragraph
3 for a motor vehicle that is being leased for a period of at least one year.

4 *Third.* All moneys and credits belonging exclusively to universities,
5 colleges, academies or other public schools of any kind, or to religious,
6 literary, scientific or benevolent and charitable institutions or associations,
7 appropriated solely to sustain such institutions or associations, not
8 exceeding in amount or in income arising therefrom the limit prescribed by
9 the charter of such institution or association.

10 *Fourth.* The reserve or emergency funds of fraternal benefit societies
11 authorized to do business under the laws of the state of Kansas.

12 *Fifth.* All buildings of private nonprofit universities or colleges which
13 are owned and operated by such universities and colleges as student union
14 buildings, presidents' homes and student dormitories.

15 *Sixth.* All real and tangible personal property actually and regularly
16 used exclusively by the alumni association associated by its articles of
17 incorporation with any public or nonprofit Kansas college or university
18 approved by the Kansas board of regents to confer academic degrees or
19 with any community college approved by its board of trustees to grant
20 certificates of completion of courses or curriculum, to provide
21 accommodations and services to such college or university or to the
22 alumni, staff or faculty thereof.

23 *Seventh.* All parsonages owned by a church society and actually and
24 regularly occupied and used predominantly as a residence by a minister or
25 other clergyman of such church society who is actually and regularly
26 engaged in conducting the services and religious ministrations of such
27 society, and the land upon which such parsonage is located to the extent
28 necessary for the accommodation of such parsonage.

29 *Eighth.* All real property, all buildings located on such property and all
30 personal property contained therein, actually and regularly used
31 exclusively by any individually chartered organization of honorably
32 discharged military veterans of the United States armed forces or auxiliary
33 of any such organization, which is exempt from federal income taxation
34 pursuant to section 501(c)(19) of the federal internal revenue code of
35 1986, for clubhouse, place of meeting or memorial hall purposes, and real
36 property to the extent of not more than two acres, and all buildings located
37 on such property, actually and regularly used exclusively by any such
38 veterans' organization or its auxiliary as a memorial park.

39 *Ninth.* All real property and tangible personal property actually and
40 regularly used by a community service organization for the predominant
41 purpose of providing humanitarian services, which is owned and operated
42 by a corporation organized not for profit under the laws of the state of
43 Kansas or by a corporation organized not for profit under the laws of

1 another state and duly admitted to engage in business in this state as a
2 foreign not-for-profit corporation if: (a) The directors of such corporation
3 serve without pay for such services; (b) the corporation is operated in a
4 manner which does not result in the accrual of distributable profits,
5 realization of private gain resulting from the payment of compensation in
6 excess of a reasonable allowance for salary or other compensation for
7 services rendered or the realization of any other form of private gain; (c)
8 no officer, director or member of such corporation has any pecuniary
9 interest in the property for which exemption is claimed; (d) the corporation
10 is organized for the purpose of providing humanitarian services; (e) the
11 actual use of property for which an exemption is claimed must be
12 substantially and predominantly related to the purpose of providing
13 humanitarian services, except that, the use of such property for a
14 nonexempt purpose which is minimal in scope and insubstantial in nature
15 shall not result in the loss of exemption if such use is incidental to the
16 purpose of providing humanitarian services by the corporation; (f) the
17 corporation is exempt from federal income taxation pursuant to section
18 501(c)(3) of the internal revenue code of 1986; and (g) contributions to the
19 corporation are deductible under the Kansas income tax act. As used in this
20 clause, "humanitarian services" means the conduct of activities which
21 substantially and predominantly meet a demonstrated community need and
22 which improve the physical, mental, social, cultural or spiritual welfare of
23 others or the relief, comfort or assistance of persons in distress or any
24 combination thereof including, but not limited to, health and recreation
25 services, child care, individual and family counseling, employment and
26 training programs for handicapped persons and meals or feeding programs.
27 Notwithstanding any other provision of this clause, motor vehicles shall
28 not be exempt hereunder unless such vehicles are exclusively used for the
29 purposes described therein, except that the use of any such vehicle for the
30 purpose of participating in a coordinated transit district in accordance with
31 the provisions of K.S.A. 75-5032 through 75-5037, and amendments
32 thereto, or K.S.A. 75-5051 through 75-5058, and amendments thereto,
33 shall be deemed as exclusive use.

34 *Tenth.* For all taxable years commencing after December 31, 1986, any
35 building, and the land upon which such building is located to the extent
36 necessary for the accommodation of such building, owned by a church or
37 nonprofit religious society or order which is exempt from federal income
38 taxation pursuant to section 501(c)(3) of the federal internal revenue code
39 of 1986, and actually and regularly occupied and used exclusively for
40 residential and religious purposes by a community of persons who are
41 bound by vows to a religious life and who conduct or assist in the conduct
42 of religious services and actually and regularly engage in religious,
43 benevolent, charitable or educational ministrations or the performance of

1 health care services.

2 *Eleventh.* For all taxable years commencing after December 31, 1998,
3 all property actually and regularly used predominantly to produce and
4 generate electricity utilizing renewable energy resources or technologies
5 when the applicant for such property, on or before December 31, 2016, has
6 filed an application for exemption pursuant to this subsection or has
7 received a conditional use permit to produce and generate electricity on the
8 property from the county in which the property is located. Any exemption
9 granted under the provisions of this subsection for such property when the
10 applicant, after December 31, 2016, has filed such application or filed such
11 application and received a conditional use permit, shall be in effect for the
12 10 taxable years immediately following the taxable year in which
13 construction or installation of such property is completed. For purposes of
14 this section, "renewable energy resources or technologies" shall include
15 wind, solar, photovoltaic, biomass, hydropower, geothermal and landfill
16 gas resources or technologies.

17 *Twelfth.* For all taxable years commencing after December 31, 2001, all
18 personal property actually and regularly used predominantly to collect,
19 refine or treat landfill gas or to transport landfill gas from a landfill to a
20 transmission pipeline, and the landfill gas produced therefrom.

21 ~~The provisions of this section, except as otherwise more specifically~~
22 ~~provided, shall apply to all taxable years commencing after December 31,~~
23 ~~2009~~

24 *Thirteenth.* For all taxable years commencing after December 31,
25 2021, all real property actually and regularly used by a health club. For
26 purposes of this section, "health club" means any corporation,
27 partnership, unincorporated association or other business enterprise
28 whose primary purpose is to offer facilities that contain cardio, weight
29 training or strength and conditioning equipment, or any combination
30 thereof, for the preservation, maintenance, encouragement or development
31 of physical fitness in return for the payment of a fee that entitles the payer
32 to the use of such facilities. A health club may have on such club's
33 premises any of the following: Health spas, studios, tennis facilities,
34 racquet facilities, basketball facilities or swimming pools that offer
35 programs that enhance the primary purpose of the health club as specified
36 in this subsection. A health club shall not be facilities that are primarily
37 weight control facilities, health spas, dance studios, martial arts or self-
38 defense studios, tennis, racquet or basketball facilities, swimming pools,
39 golf clubs or similar activities that do not have the primary purpose as
40 specified in this subsection. For purposes of this subsection, real property
41 shall be considered owned and operated by a health club if the owner of
42 the real property to be exempted from taxation and the business enterprise
43 that operates the health club and collects the payment of the fee entitling

1 *the buyer to use the facility are the same business entity, a parent or*
2 *subsidiary of the same business entity or have any direct or indirect*
3 *common ownership.*

4 Sec. 2. K.S.A. 79-201 is hereby repealed.

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