

SENATE BILL No. 365

By Committee on Assessment and Taxation

2-1

1 AN ACT concerning property taxation; relating to exemptions; health
2 clubs; amending K.S.A. 2011 Supp. 79-201 and repealing the existing
3 section.
4

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

6 Section 1. K.S.A. 2011 Supp. 79-201 is hereby amended to read as
7 follows: 79-201. The following described property, to the extent herein
8 specified, shall be and is hereby exempt from all property or *ad valorem*
9 taxes levied 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~~; and (g) contributions
19 to the corporation are deductible under the Kansas income tax act. As used
20 in this clause, "humanitarian services" means the conduct of activities
21 which substantially and predominantly meet a demonstrated community
22 need and which improve the physical, mental, social, cultural or spiritual
23 welfare of others or the relief, comfort or assistance of persons in distress
24 or any combination thereof including but not limited to health and
25 recreation services, child care, individual and family counseling,
26 employment and training programs for handicapped persons and meals or
27 feeding programs. Notwithstanding any other provision of this clause,
28 motor vehicles shall not be exempt hereunder unless such vehicles are
29 exclusively used for the purposes described therein, except that the use of
30 any such vehicle for the purpose of participating in a coordinated transit
31 district in accordance with the provisions of K.S.A. 75-5032 through 75-
32 5037, and amendments thereto, or K.S.A. 75-5051 through 75-5058, and
33 amendments thereto, 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 For purposes of this section, "renewable energy resources or technologies"
6 shall include wind, solar, photovoltaic, biomass, hydropower, geothermal
7 and landfill gas resources or technologies.

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

12 *Thirteenth.* For all taxable years commencing after December 31,
13 2012, all real property actually and regularly used predominantly for
14 health club purposes by a health club. For the purposes of this section,
15 "health club" means any corporation, partnership, unincorporated
16 association or other business enterprise whose primary purpose is to offer
17 facilities that contain cardio, weight training or strength conditioning
18 equipment for the preservation, maintenance, encouragement or
19 development of physical fitness in return for the payment of a fee entitling
20 the buyer to the use of such facilities. A health club may have on its
21 premises health spas, studios, tennis, racquet or basketball facilities, or
22 swimming pools that offer programs that enhance the primary purpose of
23 the health club as described in this section, but may not be facilities that
24 are primarily weight control facilities, health spas, dance studios, martial
25 arts or self-defense studios, tennis, racquet or basketball facilities,
26 swimming pools, golf clubs or similar facilities which do not have the
27 primary purpose as described in this section. For the purposes of this
28 section, a health club will be considered owned and operated by the health
29 club if the owners of the property to be exempted from taxation are the
30 same entity, or are owned by the owners of the same entity that collects the
31 payment of the fee entitling the purchaser to use the facility.

32 The provisions of this section, except as otherwise more specifically
33 provided, shall apply to all taxable years commencing after December 31,
34 2009.

35 Sec. 2. K.S.A. 2011 Supp. 79-201 is hereby repealed.

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