

SENATE BILL No. 76

By Senators Holland, Corson, Faust-Goudeau, Haley, Peck, Petersen, Pettey,
Pittman and Ware

1-26

1 AN ACT concerning taxation; relating to income taxation; establishing the
2 golden years homestead property tax freeze act; providing residential
3 property tax refunds.
4

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

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

13 Sec. 2. As used in this act:

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

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

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

32 (d) "Disabled veteran" means a person who is a resident of Kansas
33 and has been honorably discharged from active service in any branch of
34 the armed forces of the United States or the Kansas national guard and
35 who has been certified by the United States department of veterans affairs

1 or its successor to have a 50% permanent disability sustained through
2 military action or accident or resulting from a disease contracted while in
3 such active service.

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

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

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

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

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

43 (i) "Property taxes accrued" means property taxes, exclusive of

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

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

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

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

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

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

38 Sec. 7. Only one claimant per household per year shall be entitled to
39 relief under this act.

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

1 tax amount.

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

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

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

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

20 The secretary of revenue is hereby authorized to adopt such rules and
21 regulations as may be necessary for the administration of the provisions of
22 this act.

23 Sec. 10. (a) Every claimant under this act shall supply to the director
24 of taxation, in support of a claim, reasonable proof of age and changes of
25 homestead, household membership, household income, household assets
26 and size and nature of property claimed as the homestead.

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

38 (c) The information required to be furnished under subsection (b)
39 shall be in addition to that required under subsection (a).

40 Sec. 11. In any case in which it is determined that a claim is or was
41 excessive and was filed with fraudulent intent, the claim shall be
42 disallowed in full, and, if the claim has been paid, the amount paid may be
43 recovered by assessment as income taxes are assessed, and such

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

17 Sec. 12. No claim for relief under the provisions of this act shall be
18 allowed to any claimant who is a recipient of public funds specifically
19 designated for the payment of taxes during the period for which the claim
20 is filed.

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

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

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

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

38 (c) After the electronic record under subsection (a) has been received
39 from the director of taxation, the county clerk of the county in which the
40 property is located shall make any corrections needed, if any, based upon
41 information known by the county clerk concerning any change in
42 eligibility of any claimant listed in such record. After any needed
43 corrections have been made to the electronic record, the county clerk, on

1 behalf of each claimant listed in such record, shall certify the information
2 contained in such record to the county treasurer in lieu of paying that
3 portion of the first half of taxes on the claimant's homestead in the current
4 year, which equals the amount of the golden years homestead property tax
5 freeze refund received by the claimant for taxes levied in the preceding
6 year up to the amount of the first half of the property taxes due.

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

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

24 Sec. 16. A claimant shall only be eligible for a claim for refund under
25 this act if: (a) The household income for the year in which the claim is
26 filed is \$50,000 or less; and (b) the appraised value of the homestead is
27 \$350,000 or less.

28 Sec. 17. If there are delinquent property taxes on the claimant's
29 homestead, the refund shall be paid to the county treasurer of the county in
30 which such homestead is located and applied first to the oldest of such
31 delinquent property taxes and applied forward to the most recent
32 delinquent property taxes and then to any other property taxes due on the
33 claimant's homestead.

34 Sec. 18. This act shall take effect and be in force from and after its
35 publication in the statute book.