Session of 2006

HOUSE BILL No. 2816

By Committee on Taxation

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AN ACT relating to property taxation; enacting the senior citizen property tax relief pilot act.

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

Section 1. The provisions of this act shall be known and may be cited as the senior citizen property tax relief pilot act.

Sec. 2. As used in this act, unless the context otherwise requires:

(a) "Homestead" means the owner-occupied residence of the taxpayer;

(b) "real property taxes" means all ad valorem taxes levied on a homestead, including special assessments and all other charges which are recoverable by law at the annual real estate tax sale;

(c) "tax-deferred property" means the property upon which real property taxes are deferred pursuant to this act; and

(d) "taxpayer" means a person who has filed or whose guardian, conservator or attorney-in-fact has filed a claim for deferral pursuant to this act or persons who have jointly filed a claim for deferral under this act.

Sec. 3. (a) Subject to the provisions of this act, a person who is 65 years of age or older, on or before December 20 of the year in which such person files a claim under this section may elect to defer such person's real property taxes. To exercise such person's option, the taxpayer shall obtain a claim for deferral form from the county clerk and file the same with the treasurer of the county in which such taxpayer's homestead is located. The claim shall be filed on or before December 20 of each year in which such person claims the deferral.

(b) When the taxpayer files a valid claim for deferral under subsection (c), it shall have the effect of:

(1) Deferring the payment of such person's real property taxes for the year in which the claim is filed;

(2) subject to the provisions of section 9, and amendments thereto, continuing the deferral of taxes which have been deferred under this act for previous years; and

(3) terminating and releasing the lien for the general taxes so deferred and substituting therefor the lien for such deferred taxes created pursuant to rules and regulations adopted by the state treasurer.

(c) If a guardian, conservator or attorney-in-fact has been appointed for a taxpayer otherwise qualified to claim deferral of taxes under this act, the guardian, conservator or attorney-in-fact may act for such taxpayer in claiming the deferral.

Sec. 4. In order to qualify for real property tax deferral under this act, the property shall meet all of the following requirements at the time the claim is filed and so long thereafter as payment is deferred:

(a) The property must be the homestead of the taxpayer claiming the deferral;

(b) the taxpayer claiming the deferral must, own or jointly own with another person residing in the homestead, own the fee simple estate or be purchasing the fee simple estate under a recorded instrument of sale except that nonresidence of the joint owner in the homestead because of ill health of the joint owner shall not prevent the taxpayer from meeting the requirement of this subsection;

(c) the property is at or below the median home value for the county in which the property is located;

(d) the property for which the deferral is claimed shall not be income-producing;

(e) the property may not be subject to the lien of a mortgage or deed of trust which has been of record for less than five years prior to the date on which a claim for deferral is submitted to the county treasurer, except that if there is of record a subordination agreement whereby the holder of a mortgage or deed of trust which has not been of record for five years prior to the date on which a claim for deferral is submitted agrees to subordinate such mortgage or deed of trust to the lien of the state for deferred taxes, the property may qualify for tax deferral;

(f) all real property taxes for years prior to the year for which the election is made must be paid; and

(g) the cumulative value of the deferral provided in this section plus the interest accrued on the deferral provided in section 5, and amendments thereto, shall not exceed the market value of the property less the value of all mortgages which constitute liens upon the property and any other liens upon the property filed prior to the date of recordation of the certificate for deferral.

Sec. 5. Interest shall accrue on deferred taxes at the rate of 8% per year, beginning January 1 of the calendar year in which the deferral is claimed, until the date on which such taxes are paid. The interest shall be compounded annually.

Sec. 6. Upon receipt of the certificate of deferral, the state treasurer shall pay to the county treasurer the amount certified as deferred. This amount shall be distributed by the county treasurer in the same manner the tax would have been if regularly paid.

Sec. 7. (a) On and after the date of payment by the state treasurer to the county treasurer as provided in section 6, and amendments thereto, the right to receive payment of the deferred taxes and accrued interest and to enforce the lien created by deferral shall be vested in the state treasurer.

(b) If payment of the deferred taxes and accrued interest is tendered to the county treasurer, the county treasurer shall accept payment, give a receipt therefor, and remit the money collected to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state general fund.

(c) Promptly upon receiving payment of deferred taxes and accrued interest, the state treasurer shall issue a release of the deferred tax lien, which release shall be given or sent to the person making payment. Copies of the release shall be sent to the treasurer and the appraiser.

Sec. 8. (a) All deferred real property taxes, including accrued interest, become payable subject to sections 9 and 10, and amendments thereto, when:

(1) The taxpayer who claimed the tax deferral dies;

(2) the property on which the taxes were deferred is sold or becomes subject to a contract of sale or title to the property is transferred to someone other than the taxpayer who claimed the tax deferral;

(3) the property is no longer the homestead of the taxpayer who claimed the deferral, except in the case of a taxpayer required to be absent from such tax-deferred property by reason of ill health; or

(4) the tax-deferred property no longer meets the requirements of section 4, and amendments thereto.

(b) When the county appraiser or county treasurer has reason to believe any of the circumstances enumerated in this section have occurred, the county appraiser or the county treasurer shall promptly notify the state treasurer.

Sec. 9. (a) Whenever any of the circumstances listed in section 8, and amendments thereto, occurs:

(1) No further tax deferrals may be claimed on the property until all unpaid taxes thereon, including previously deferred taxes and interest, have been paid;

(2) all deferred taxes and accrued interest shall be due and payable 90 days after the circumstance occurs, except as provided in subsection (b) and in section 10, and amendments thereto.

(b) Notwithstanding any provision of this section to the contrary, when the taxpayer dies the deferred taxes and accrued interest shall be due and payable one year after the taxpayer's death.

Sec. 10. (a) Notwithstanding the provisions of section 8, and amendments thereto, when one of the circumstances listed in paragraphs (1) or (3) of subsection (a) of section 8, and amendments thereto, occurs, the spouse of the taxpayer may elect to continue the property in its tax-deferred status if:

(1) The spouse of the taxpayer is or will be 60 years of age or older when the circumstance occurs; and

(2) the property is the homestead of the spouse of the taxpayer and meets the requirements of subsections (b) and (c) of section 4, and amendments thereto.

(b) The election granted under subsection (a) shall be filed in the same manner as a claim for deferral is filed under section 3, and amendments thereto, not later than 90 days from the date the circumstance occurs. Thereafter, the property shall continue to be treated as tax-deferred property and the county treasurer and state treasurer shall withdraw any action taken under section 9, and amendments thereto. When the property has been continued in its tax-deferred status by the spouse of the taxpayer, the spouse may continue the property in its tax-deferred status in subsequent years by filing a claim, as provided in this act, and amendments thereto, annually if the property continues to be eligible for tax-deferred status.

Sec. 11. The state treasurer shall submit to the governor and the legislature on an annual basis a report concerning tax deferral for the elderly as set forth in this act. Such report shall include data concerning the number of taxpayers establishing claims for deferral, the amount of taxes deferred in each county and such other data as the state treasurer may deem useful.

Sec. 12. The state treasurer shall adopt rules and regulations to administer the provisions of this act.

Sec. 13. The provisions of this act shall commence on and after January 1, 2007. No person may first submit a claim for deferral of property taxes pursuant to this act after December 31, 2009.

Sec. 14. This act shall take effect and be in force from and after January 1, 2007, and its publication in the statute book.