

HOUSE BILL No. 2298

By Representatives Holland, Carlin, Ruff, Ruiz, Ward and Williams

1-30

9 AN ACT relating to property taxation; enacting the senior citizen prop-
10 erty tax deferral act.

11

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

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

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

16 (a) "Act" means the senior citizen property tax deferral act;

17 (b) "homestead" means the owner-occupied residence of the
18 taxpayer;

19 (c) "real property taxes" means all ad valorem taxes levied on a home-
20 stead, including special assessments and all other charges which are re-
21 coverable by law at the annual real estate tax sale;

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

24 (e) "taxpayer" means a person who has filed or whose guardian, con-
25 servator or attorney-in-fact has filed a claim for deferral pursuant to this
26 act or persons who have jointly filed a claim for deferral under this act.

27 Sec. 3. (a) Subject to the provisions of this act, a person who is 65
28 years of age or older, on or before December 1 of the year in which such
29 person files a claim under this section may elect to defer all or part of
30 such person's real property taxes for the year in which the claim is filed.
31 To exercise such person's option, the taxpayer shall obtain a claim for
32 deferral form from the county clerk and file the same with the treasurer
33 of the county in which such taxpayer's homestead is located. The claim
34 shall be filed on or before December 20 of each year in which such person
35 claims the deferral.

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

38 (1) Deferring the payment of all or part of such person's real property
39 taxes for the year in which the claim is filed; and

40 (2) creating the lien for such deferred taxes.

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

1 claiming the deferral.

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

5 (a) The property must be the homestead of the taxpayer claiming the
6 deferral and the taxpayer shall have resided in such homestead prior to
7 July 1, 2007;

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

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

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

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

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

28 (g) the cumulative value of the deferral provided in this section plus
29 the interest accrued on the deferral provided in section 5, and amend-
30 ments thereto, shall not exceed the market value of the property less the
31 value of all mortgages which constitute liens upon the property and any
32 other liens upon the property filed prior to the date of recordation of the
33 certificate for deferral; and

34 (h) the property may not be subject to a mortgage or deed of trust
35 in which the lender has required an escrow account. The taxpayer shall
36 obtain a statement from the taxpayer's lender certifying that there is no
37 escrow account required and shall file such statement with the taxpayer's
38 claim for deferral.

39 Sec. 5. Interest shall accrue on deferred taxes at a rate established
40 by rules and regulations adopted by the state treasurer based on market
41 conditions and other relevant factors determined by the state treasurer,
42 not to exceed 5% per year, beginning January 1 of the calendar year in
43 which the deferral is claimed, until the date on which such taxes are paid.

1 The interest shall be compounded annually.

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

6 Sec. 7. The lien for deferred taxes and accrued interest shall be filed
7 in the county of residence of the taxpayer who claimed the tax deferral.
8 Such lien shall attach on the date of recordation of the certificate for
9 deferral, shall be junior to any mortgage or deed of trust recorded prior
10 to the date of recording of such certificate and shall have priority over all
11 liens attaching subsequent to the date of recording such certificate.

12 Sec. 8. (a) On and after the date of payment by the state treasurer
13 to the county treasurer as provided in section 6, and amendments thereto,
14 the right to receive payment of the deferred taxes and accrued interest
15 and to enforce the lien created by deferral shall be vested in the state
16 treasurer.

17 (b) If payment of the deferred taxes and accrued interest is tendered
18 to the county treasurer, the county treasurer shall accept payment, give
19 a receipt therefor, and remit the money collected to the state treasurer
20 in accordance with the provisions of K.S.A. 75-4215, and amendments
21 thereto. Upon receipt of each such remittance, the state treasurer shall
22 deposit the entire amount in the state treasury to the credit of the senior
23 citizen property tax relief fund, which fund is hereby created. All ex-
24 penditures of moneys from the senior citizen property tax relief fund shall
25 be made in accordance with appropriations acts upon warrants of the
26 director of accounts and reports issued pursuant to vouchers approved
27 by the state treasurer for the purposes set forth in this act.

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

32 Sec. 9. (a) All deferred real property taxes, including accrued inter-
33 est, become payable subject to sections 10 and 11, and amendments
34 thereto, when:

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

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

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

42 (4) the tax-deferred property no longer meets the requirements of
43 subsections (d), (e) or (h) of section 4, and amendments thereto.

1 (b) When the county appraiser or county treasurer has reason to be-
2 lieve any of the circumstances enumerated in this section have occurred,
3 the county appraiser or the county treasurer shall promptly notify the
4 state treasurer.

5 Sec. 10. (a) Whenever any of the circumstances listed in section 9,
6 and amendments thereto, occurs:

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

10 (2) all deferred taxes and accrued interest shall be due and payable
11 90 days after the circumstance occurs, except as provided in subsection
12 (b) and in section 11, and amendments thereto.

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

16 Sec. 11. (a) Notwithstanding the provisions of section 9, and amend-
17 ments thereto, when one of the circumstances listed in paragraphs (1) or
18 (3) of subsection (a) of section 9, and amendments thereto, occurs, the
19 spouse of the taxpayer may elect to continue the property in its tax-de-
20 ferred status if:

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

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

26 (b) The election granted under subsection (a) shall be filed in the
27 same manner as a claim for deferral is filed under section 3, and amend-
28 ments thereto, not later than 90 days from the date the circumstance
29 occurs. Thereafter, the property shall continue to be treated as tax-de-
30 ferred property and the county treasurer and state treasurer shall with-
31 draw any action taken under section 10, and amendments thereto. When
32 the property has been continued in its tax-deferred status by the spouse
33 of the taxpayer, the spouse may continue the property in its tax-deferred
34 status in subsequent years by filing a claim, as provided in this act, and
35 amendments thereto, annually if the property continues to be eligible for
36 tax-deferred status.

37 Sec. 12. The state treasurer shall submit to the governor and the
38 legislature on an annual basis a report concerning tax deferral for the
39 elderly as set forth in this act. Such report shall include data concerning
40 the number of taxpayers establishing claims for deferral, the amount of
41 taxes deferred in each county and such other data as the state treasurer
42 may deem useful.

43 Sec. 13. The state treasurer shall adopt rules and regulations to ad-

1 minister the provisions of this act.

2 Sec. 14. The provisions of this act shall commence on and after Jan-
3 uary 1, 2008. No person may first submit a claim for deferral of property
4 taxes pursuant to this act after December 31, 2010.

5 Sec. 15. This act shall take effect and be in force from and after
6 January 1, 2008, and its publication in the statute book.