

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 2008

HOUSE BILL No. 2928

By Special Committee on Assessment and Taxation

2-21

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

14

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

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

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

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

20 (b) "homestead" means the owner-occupied residence of the
21 taxpayer;

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

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

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

30 Sec. 3. (a) Subject to the provisions of this act, a person who is 65
31 years of age or older, on or before December 31 of the year in which
32 such person is seeking to defer real property taxes under this section may
33 elect to defer all or part of such person's real property taxes for such year,
34 except that the total amount which may be deferred shall not exceed
35 \$2,500. To exercise such person's option, the taxpayer shall file a claim
36 for deferral with the secretary of revenue along with the taxpayer's state
37 income tax return on or before April 15 of each year in which such person
38 claims the deferral. The secretary of revenue shall approve or deny a claim
39 and notify the county treasurer of the county of residence of the person
40 who claims the deferral of the approved deferral on or before June 15 of
41 each year in which such person claims the deferral. The county treasurer
42 shall notify any lienholder of record on a property on which property
43 taxes shall be deferred of the approved deferral on or before July 1 of

1 each year in which such person claims the deferral.

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

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

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

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

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

14 (a) The property shall be the homestead of the taxpayer prior to
15 claiming the deferral and the taxpayer shall have resided in such home-
16 stead for at least 10 years prior to ~~July 1, 2008~~ **making the claim for**
17 **deferral;**

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

24 (c) the taxpayer claiming the deferral and all members of the tax-
25 payer's household shall have combined Kansas adjusted gross income not
26 exceeding \$60,000 for the preceding tax year;

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

29 (e) all real property taxes for years prior to the year for which the
30 election is made shall have been paid; ~~and~~

31 (f) the total unpaid balances of debts secured by mortgages and other
32 liens on the property shall not exceed 50% of the ~~market~~ **appraised** value
33 of the property **as determined by the county or district appraiser;**
34 **and**

35 **(g) the property is insured by a property and casualty insur-**
36 **ance policy.**

37 Sec. 5. Interest shall accrue on deferred taxes at a rate as provided
38 pursuant to K.S.A. 79-2968, and amendments thereto.

39 Sec. 6. ~~In accordance with appropriation acts, upon~~ **(a) The pooled**
40 **money investment board is hereby authorized to loan to the de-**
41 **partment of revenue to meet payment obligations of the depart-**
42 **ment pursuant to the provisions of this act. The pooled money**
43 **investment board is authorized and directed to use any moneys in**

1 **the operating accounts, investment accounts or other investments**
2 **of the state of Kansas to provide funds for such loans. Upon cer-**
3 **tification to the pooled money investment board by the secretary**
4 **of revenue of the amount of each loan authorized pursuant to this**
5 **act, the pooled money investment board shall transfer each such**
6 **amount to the state treasurer in accordance with the provisions of**
7 **K.S.A. 75-4215, and amendments thereto. Upon receipt of each**
8 **such remittance, the state treasurer shall deposit the entire**
9 **amount in the state treasury to the credit of the senior citizen**
10 **property tax deferral fund, which shall not be a part of the state**
11 **treasury. All expenditures from such fund shall be made upon war-**
12 **rants of the director of accounts and reports issued pursuant to**
13 **vouchers approved by the secretary of revenue or by a person or**
14 **persons designated by the secretary. Amounts deposited under this**
15 **section shall not be subject to any limitation imposed by any ap-**
16 **propriation act by the legislature.**

17 (b) **Upon** issuance of the certificate of deferral by the department of
18 revenue, ~~the department shall pay~~ **there shall be paid** to the county
19 treasurer the amount certified as deferred. This amount shall be distrib-
20 uted by the county treasurer in the same manner the tax would have been
21 if regularly paid.

22 Sec. 7. The lien for deferred taxes and accrued interest shall be filed
23 in the county of residence of the taxpayer who claimed the tax deferral.
24 A separate lien shall be filed for each valid claim for deferral. Such lien
25 shall attach on the date of recordation of the certificate for deferral, shall
26 be junior to any mortgage or deed of trust recorded prior to the date of
27 recording of such certificate and shall have priority over all liens attaching
28 subsequent to the date of recording such certificate. There shall be no
29 filing fee for any lien filed as required pursuant to the provisions of this
30 act.

31 Sec. 8. (a) On and after the date of payment by the department of
32 revenue to the county treasurer as provided in section 6, and amendments
33 thereto, the right to receive payment of the deferred taxes and accrued
34 interest and to enforce the lien created by deferral shall be vested in the
35 department.

36 (b) If payment of the deferred taxes and accrued interest is tendered
37 to the county treasurer, the county treasurer shall accept payment, give
38 a receipt therefor, and remit the money collected to the department of
39 revenue in accordance with the provisions of K.S.A. 75-4215, and amend-
40 ments thereto. Upon receipt of each such remittance, the department
41 shall deposit the entire amount in the state treasury to the credit of the
42 state general fund.

43 (c) Promptly upon receiving payment of deferred taxes and accrued

1 interest, the department of revenue shall issue a release of the deferred
2 tax lien, which release shall be given or sent to the person making pay-
3 ment. Copies of the release shall be sent to the county treasurer and the
4 county appraiser.

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

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

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

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

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

17 (b) When the county appraiser or county treasurer has reason to be-
18 lieve any of the circumstances enumerated in this section have occurred,
19 the county appraiser or the county treasurer shall promptly notify the
20 department of revenue.

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

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

26 (2) all deferred taxes and accrued interest shall be due and payable
27 90 days after the circumstance occurs, except as provided in subsection
28 (b) and in section 11, and amendments thereto.

29 (b) Notwithstanding any provision of this section to the contrary,
30 when the taxpayer dies, the deferred taxes and accrued interest shall be
31 due and payable 180 days after the taxpayer's death.

32 Sec. 11. (a) Notwithstanding the provisions of section 9, and amend-
33 ments thereto, when either of the circumstances listed in paragraphs (1)
34 or (3) of subsection (a) of section 9, and amendments thereto, occurs, the
35 spouse of the taxpayer may elect to continue the property in its tax-de-
36 ferred status if:

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

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

42 (b) The election granted under subsection (a) shall be filed in the
43 same manner as a claim for deferral is filed under section 3, and amend-

1 ments thereto, not later than 90 days from the date the circumstance
2 occurs. Thereafter, the property shall continue to be treated as tax-de-
3 ferred property and the county treasurer and state treasurer shall with-
4 draw any action taken under section 10, and amendments thereto. When
5 the property has been continued in its tax-deferred status by the spouse
6 of the taxpayer, the spouse may continue the property in its tax-deferred
7 status in subsequent years by filing a claim, as provided in this act, and
8 amendments thereto, annually if the property continues to be eligible for
9 tax-deferred status.

10 Sec. 12. The secretary of revenue shall submit to the governor and
11 the legislature on an annual basis a report concerning tax deferrals as set
12 forth in this act. Such report shall include data concerning the number
13 of taxpayers establishing claims for deferral, the amount of taxes deferred
14 in each county and such other data as the secretary may deem useful.

15 Sec. 13. The secretary of revenue shall adopt rules and regulations
16 to administer the provisions of this act.

17 Sec. 14. The provisions of this act shall commence on and after Jan-
18 uary 1, 2009. No person may ~~first~~ submit a claim for deferral of property
19 taxes pursuant to this act after December 31, 2013.

20 Sec. 15. This act shall take effect and be in force from and after
21 January 1, 2009, and its publication in the statute book.