

SENATE BILL No. 140

By Committee on Assessment and Taxation

1-29

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

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

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

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

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

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

11 (a) The property shall be the homestead of the taxpayer prior to
12 claiming the deferral and the taxpayer shall have resided in such home-
13 stead for at least 10 years prior to making the claim for deferral;

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

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

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

25 (e) all real property taxes for years prior to the year for which the
26 election is made shall have been paid;

27 (f) the total unpaid balances of debts secured by mortgages and other
28 liens on the property shall not exceed 50% of the appraised value of the
29 property as determined by the county or district appraiser; and

30 (g) the property is insured by a property and casualty insurance
31 policy.

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

34 Sec. 6. (a) The pooled money investment board is hereby authorized
35 to loan to the department of revenue to meet payment obligations of the
36 department pursuant to the provisions of this act. The pooled money
37 investment board is authorized and directed to use any moneys in the
38 operating accounts, investment accounts or other investments of the state
39 of Kansas to provide funds for such loans. Upon certification to the pooled
40 money investment board by the secretary of revenue of the amount of
41 each loan authorized pursuant to this act, the pooled money investment
42 board shall transfer each such amount to the state treasurer in accordance
43 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon

1 receipt of each such remittance, the state treasurer shall deposit the entire
2 amount in the state treasury to the credit of the senior citizen property
3 tax deferral fund, which shall not be a part of the state treasury. All ex-
4 penditures from such fund shall be made upon warrants of the director
5 of accounts and reports issued pursuant to vouchers approved by the
6 secretary of revenue or by a person or persons designated by the secre-
7 tary. Amounts deposited under this section shall not be subject to any
8 limitation imposed by any appropriation act by the legislature.

9 (b) Upon issuance of the certificate of deferral by the department of
10 revenue, there shall be paid to the county treasurer the amount certified
11 as deferred. This amount shall be distributed by the county treasurer in
12 the same manner the tax would have been if regularly paid.

13 Sec. 7. The lien for deferred taxes and accrued interest shall be filed
14 in the county of residence of the taxpayer who claimed the tax deferral.
15 A separate lien shall be filed for each valid claim for deferral. Such lien
16 shall attach on the date of recordation of the certificate for deferral, shall
17 be junior to any mortgage or deed of trust recorded prior to the date of
18 recording of such certificate and shall have priority over all liens attaching
19 subsequent to the date of recording such certificate. There shall be no
20 filing fee for any lien filed as required pursuant to the provisions of this
21 act.

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

27 (b) If payment of the deferred taxes and accrued interest is tendered
28 to the county treasurer, the county treasurer shall accept payment, give
29 a receipt therefor, and remit the money collected to the department of
30 revenue in accordance with the provisions of K.S.A. 75-4215, and amend-
31 ments thereto. Upon receipt of each such remittance, the department
32 shall deposit the entire amount in the state treasury to the credit of the
33 state general fund.

34 (c) Promptly upon receiving payment of deferred taxes and accrued
35 interest, the department of revenue shall issue a release of the deferred
36 tax lien, which release shall be given or sent to the person making pay-
37 ment. Copies of the release shall be sent to the county treasurer and the
38 county appraiser.

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

- 42 (1) The taxpayer who claimed the tax deferral dies;
- 43 (2) the property on which the taxes were deferred is sold or becomes

1 subject to a contract of sale or title to the property is transferred to a
2 person other than the taxpayer who claimed the tax deferral;

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

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

8 (b) When the county appraiser or county treasurer has reason to be-
9 lieve any of the circumstances enumerated in this section have occurred,
10 the county appraiser or the county treasurer shall promptly notify the
11 department of revenue.

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

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

17 (2) all deferred taxes and accrued interest shall be due and payable
18 90 days after the circumstance occurs, except as provided in subsection
19 (b) and in section 11, and amendments thereto.

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

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

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

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

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

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

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

8 Sec. 14. The provisions of this act shall commence on and after Jan-
9 uary 1, 2010. No person may submit a claim for deferral of property taxes
10 pursuant to this act after December 31, 2014.

11 Sec. 15. This act shall take effect and be in force from and after
12 January 1, 2010, and its publication in the statute book.