SESSION OF 2008

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2928

As Amended by House Committee of the Whole

Brief*

HB 2928, as amended, would enact the Senior Citizen Property Tax Deferral Act (SCPTDA), a program which would allow certain taxpayers at least 65 years of age by December 31 to defer all or a portion of property taxes on their homestead property. The SCPTDA would be effective for tax years 2009 to 2013, at which point the law would sunset.

Eligible taxpayers would be required to file claim forms along with their state income tax returns on or before April 15 of each year for which they are seeking the deferrals. Once deferrals become valid and allow claimants to defer property taxes for a given tax year, they also would create a lien against the homestead property for the taxes deferred. A lien established for deferred taxes and accrued interest (at the rate prescribed by KSA 79-2968) would be filed in a qualifying taxpayer's county of residence. These liens would be subordinate to any mortgage or deed of trust recorded prior to the date on the deferral certificate. The liens would have priority over any other liens that attach after the date on the certificate.

The bill would allow the deferral to be claimed by the taxpayer, his or her guardian, the conservator, or the attorney-in-fact. Qualifications for the deferral would include:

- The taxpayer must have total household income of $60,000 or less;
- The property must be the homestead of the taxpayer claiming the deferral;

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*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at http://www.kslegislature.org

- The taxpayer must have resided in the homestead for at least 10 years;

- The taxpayer must own or jointly own the property;

- The property cannot be income-producing;

- The total unpaid balances of debts secured by mortgages and other liens on the property could not exceed 50 percent of its appraised value;

- All real property taxes for previous years must have been paid; and

- The property must be insured.

The Pooled Money Investment Board would loan to the Department of Revenue sufficient funds to cover the amount of deferred property taxes. Such amounts subsequently would be paid to the appropriate county treasurers for distribution to taxing subdivisions in the same manner as general property taxes. Once the payment is made to the county treasurer, the right to receive payment for the deferred taxes and accrued interest and to enforce the lien created by the deferral would be vested in the Department of Revenue.

In the event payment of deferred taxes and interest is paid to a county treasurer, the county treasurer would be required to accept the payment and remit the money to the Department of Revenue. Upon receipt of this money, the Department would be required to issue a release of the tax deferral lien.

Deferred taxes and accrued interest generally would become payable when:

- The taxpayer claiming the deferral dies;

- The property for which the taxes have been deferred is sold or becomes subject to a contract for sale or title transfers to someone else;

- The property is no longer the homestead of the taxpayer, except in cases where the taxpayer for reasons of ill health is not able to live in the property; or

- The property no longer meets the eight aforementioned qualifying requirements for deferral.

An exception to these circumstances that would otherwise trigger the deferred taxes and accrued interest to become payable would be provided for spouses who are age 60 or older.

The Secretary of Revenue would be required to submit an annual report to the Governor and the Legislature regarding the SCPTDA.

Background

The bill was introduced as a result of an interim study by the Special Committee on Assessment and Taxation. Proponents included Representative Tom Holland; the Unified Government of Wyandotte County and Kansas City, Kansas; AARP; and the Douglas County Treasurer.

The House Taxation Committee amendments, which were suggested by Representative Holland after extensive Committee discussion, included the requirement that the property be insured; the loan provisions relating to the Pooled Money Investment Board; and a clarification that the taxpayers must have lived in the property for at least 10 years (as opposed to a fixed date).

The House Committee of the Whole amended the bill to clarify the application of the sunset provisions.

The Department of Revenue indicated that about $1.1 million in deferred property taxes might be expected per year. Because of the structure of the amendment relating to the loan from the Pooled Money Investment Board, the bill is believed to not have any significant fiscal impact for the State General Fund. The Department also indicated that any additional administrative expenses associated with the implementation of the program would be negligible and could be handled within existing resources.