

HOUSE BILL No. 2779

By Committee on Taxation

3-14

1 AN ACT relating to property taxation; enacting the senior citizen property
2 tax deferral act.

3

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

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

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

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

9 (b) "base year" means the most recent calendar year that the taxpayer
10 paid the full amount of real property taxes owed on the taxpayer's
11 homestead;

12 (c) "homestead" means the owner-occupied residence of the taxpayer;

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

16 (e) "tax-deferred property" means the property upon which real
17 property taxes are deferred pursuant to this act;

18 (f) "tax increment" means the amount of real property taxes levied on
19 the taxpayer's homestead that is in excess of the amount levied in the base
20 year; and

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

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

1 treasurer shall notify any lienholder of record on a property on which
2 property taxes shall be deferred of the approved deferral on or before July
3 1 of each year in which such person claims the deferral.

4 (b) When the taxpayer files a valid claim for deferral under
5 subsection (a), filing of such claim shall have the effect of:

6 (1) Deferring the payment of all or part of the tax increment for the
7 year in which the claim is filed; and

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

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

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

16 (a) The property shall be the homestead of the taxpayer prior to
17 claiming the deferral and the taxpayer shall have resided in such
18 homestead for at least 10 years prior to making the claim for deferral;

19 (b) the taxpayer claiming the deferral shall: (1) Own or jointly own
20 with another person residing in the homestead; (2) own the fee simple
21 estate; or (3) be purchasing the fee simple estate under a recorded
22 instrument of sale, except that nonresidence of the joint owner in the
23 homestead because of ill health of the joint owner shall not prevent the
24 taxpayer from meeting the requirement of this subsection;

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

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

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

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

35 (g) the property is insured by a property and casualty insurance
36 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. (a) The pooled money investment board is hereby authorized
40 to loan to the department of revenue to meet payment obligations of the
41 department pursuant to the provisions of this act. The pooled money
42 investment board is authorized and directed to use any moneys in the
43 operating accounts, investment accounts or other investments of the state

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

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

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

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

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

39 (c) Promptly upon receiving payment of deferred taxes and accrued
40 interest, the department of revenue shall issue a release of the deferred tax
41 lien, which release shall be given or sent to the person making payment.
42 Copies of the release shall be sent to the county treasurer and the county
43 appraiser.

1 Sec. 9. (a) All deferred real property taxes, including accrued interest,
2 become payable subject to sections 10 and 11, and amendments thereto,
3 when:

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

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

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

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

13 (b) When the county appraiser or county treasurer has reason to
14 believe any of the circumstances enumerated in this section have occurred,
15 the county appraiser or the county treasurer shall promptly notify the
16 department of revenue.

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

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

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

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

28 Sec. 11. (a) Notwithstanding the provisions of section 9, and
29 amendments thereto, when either of the circumstances listed in section
30 9(a)(1) or (3), and amendments thereto, occurs, the spouse of the taxpayer
31 may elect to continue the property in its tax-deferred status if:

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

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

36 (b) The election granted under subsection (a) shall be filed in the
37 same manner as a claim for deferral is filed under section 3, and
38 amendments thereto, not later than 90 days from the date the circumstance
39 occurs. Thereafter, the property shall continue to be treated as tax-deferred
40 property and the county treasurer and state treasurer shall withdraw any
41 action taken under section 10, and amendments thereto. When the property
42 has been continued in its tax-deferred status by the spouse of the taxpayer,
43 the spouse may continue the property in its tax-deferred status in

1 subsequent years by filing a claim, as provided in this act, and
2 amendments thereto, annually if the property continues to be eligible for
3 tax-deferred status.

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

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

11 Sec. 14. The provisions of this act shall commence on and after
12 January 1, 2019. No person may submit a claim for deferral of property
13 taxes pursuant to this act after December 31, 2023.

14 Sec. 15. This act shall take effect and be in force from and after its
15 publication in the statute book.