

SENATE BILL No. 370

By Committee on Assessment and Taxation

2-2

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

10 (c) "real property taxes" means all *ad valorem* taxes levied on a
11 homestead, including special assessments and all other charges which are
12 recoverable by law at the annual real estate tax sale;

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

15 (e) "taxpayer" means a person who has filed or whose guardian,
16 conservator or attorney-in-fact has filed a claim for deferral pursuant to
17 this act or persons who have jointly filed a claim for deferral under this
18 act.

19 Sec. 3. (a) Subject to the provisions of this act, a person who is 65
20 years of age or older, on or before December 31 of the year in which such
21 person is seeking to defer real property taxes under this section may elect
22 to defer all or part of such person's real property taxes for such year,
23 except that the total amount which may be deferred shall not exceed
24 \$2,500. To exercise such person's option, the taxpayer shall file a claim for
25 deferral with the secretary of revenue along with the taxpayer's state
26 income tax return on or before April 15 of each year in which such person
27 claims the deferral. The secretary of revenue shall approve or deny a claim
28 and notify the county treasurer of the county of residence of the person
29 who claims the deferral of the approved deferral on or before June 15 of
30 each year in which such person claims the deferral. The county treasurer
31 shall notify any lienholder of record on a property on which property taxes
32 shall be deferred of the approved deferral on or before July 1 of each year
33 in which such person claims the deferral.

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

36 (1) Deferring the payment of all or part of such person's real property

1 taxes for the year in which the claim is filed; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 41 (1) The taxpayer who claimed the tax deferral dies;
- 42 (2) the property on which the taxes were deferred is sold or becomes
43 subject to a contract of sale or title to the property is transferred to a person

1 other than the taxpayer who claimed the tax deferral;

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

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

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

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

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

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

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

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

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

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

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

43 Sec. 12. The secretary of revenue shall submit to the governor and the

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

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

7 Sec. 14. The provisions of this act shall commence on and after
8 January 1, 2013. No person may submit a claim for deferral of property
9 taxes pursuant to this act after December 31, 2017.

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