SENATE, No. 1519



STATE OF NEW JERSEY

219th LEGISLATURE



INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

SYNOPSIS

"Senior Citizens Property Tax Deferral Act"; allows certain seniors to defer property tax payments.

CURRENT VERSION OF TEXT

As introduced.



An Act concerning the deferral of certain senior citizens’ property tax payments, and supplementing Title 54 of the Revised Statutes.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. This act shall be known and may be cited as the "Senior Citizens Property Tax Deferral Act."

2. The Legislature finds and declares that:

a. The combination of low, fixed incomes, and New Jersey’s high cost of living, have created an overwhelming challenge for many New Jersey seniors, over 42 percent of whom live in economic insecurity;

b. Property taxes in New Jersey have risen dramatically in recent years, climbing on average from less than $5,000 in 2002, at which time the State’s property taxes were already highest in the nation by some measures, to more than $8,500 in recent years;

c. Many New Jersey seniors, in addition to struggling with low fixed incomes, frequently face health emergencies and other problems that may render them unable to handle financial matters, or may turn the payment of property taxes into a financially impossible task;

d. Because property tax bills, if neglected for long enough, can result in a tax sale, and eventually foreclosure, these bills threaten many seniors with financial catastrophe and the eventual loss of home ownership;

e. Despite the recent improvements in unemployment statistics and other economic indicators, New Jersey’s foreclosure rate continues to be elevated, and was higher than that of any other state in 2018;

f. Although reverse mortgages, in some cases, can offer seniors the extra money necessary to pay property tax bills, seniors are often reluctant to enter into these contracts, due to concerns that fees and other contractual terms may become more burdensome than initially expected; and

g. It is, therefore, a compelling public purpose in the best interests of this State to allow certain low-income seniors defer the payment of property taxes until a senior dies, or the home is sold or otherwise conveyed.

3. As used in P.L. , c. (C. ) (pending before the Legislature as this bill):

"Applicant" means an eligible senior who submits an application for a tax deferral.

"Deferral" or "tax deferral" means the delay of bill payment for property taxes pursuant to section 4 of P.L. , c. (C. ) (pending before the Legislature as this bill).

"Deferred payments" means taxes subject to a deferral.

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Eligible senior" means any person of at least 65 years of age whose residence has an equalized assessed value of under $500,000, is not subject to a reverse mortgage, and who has an annual household income, for federal income tax purposes, of less than $50,000.

"Eligible senior’s equity" means 75 percent of the equalized assessed value of the residence as determined by the municipal assessor for the year in which the eligible senior files a claim under section 4 of P.L. , c. (C. ) (pending before the Legislature as this bill), which amount shall be reduced by the amount of any liens against the residence, including the liens for any property taxes already deferred.

"Residence" means a dwelling unit that is occupied by the owner as their principal place of domicile.

"Reverse mortgage" means a home equity conversion mortgage or other similar financial instrument marketed as a reverse mortgage.

"Senior Citizens Property Tax Deferral Fund" means the revolving fund established pursuant to section 13 of P.L.    , c.    (C.        ) (pending before the Legislature as this bill).

"Tax-deferred property" means the land and residential improvements thereon upon which property taxes are deferred.

4. a. An eligible senior may apply for an annual deferral of the amount of all property taxes that will become due and payable in the subsequent calendar year, as estimated based on the property taxes due during the year in which the application is submitted.

b. Each year, the amount of the deferral on any eligible senior’s residence shall not exceed 110 percent of the property taxes assessed and levied on the residence for the year in which the application is submitted, as adjusted to account for the total amount of rebates, credits, deductions, or exemptions received by an eligible senior, or on behalf of the eligible senior, that are incorporated into the eligible senior’s property tax bill, for the year in which the application is submitted.

c. Deferred payments on a residence shall not be permitted beyond the limit of the eligible senior’s equity in that residence.

d. (1) If the applicant has delinquent taxes and charges on the residence that collectively do not exceed the amount of the tax deferral awarded for the ensuing year, the tax collector shall apply the deferral payment to satisfy the delinquent charges, or redeem the property if the lien has already been sold at tax sale, prior to applying the deferral against new property tax balances.

(2) If the eligible senior has delinquent taxes and charges on the residence that collectively do exceed the amount of deferral awarded for the ensuing year, then the tax collector shall apply the deferral payment only against new property tax balances.

e. Receipt of a tax deferral shall not limit the amount that the eligible senior may receive through the homestead property tax reimbursement program, P.L.1997, c.348 (C.54:4-8.67 et al.).

5. a. No deferral of current property taxes or assessments shall be allowed except upon an annual written application therefore, on a form prescribed by the director. The application shall:

(1) specify any documentation that an applicant shall submit in order to receive a deferral as an eligible senior, including confirmation that the applicant meets the income, property value, and reverse mortgage restrictions;

(2) direct the applicant to specify what amount of the property tax bill the applicant wants to defer; and

(3) notify the applicant of their ability to initiate a search for municipal liens pursuant to R.S.54:5-12, in exchange for the associated fee, and provide the applicant with contact information for the municipal tax collector’s office.

b. An eligible senior, or a person acting on behalf of the eligible senior, shall file the application for deferral with the tax collector of the municipality in which the residence is located by April 1 preceding the calendar year for which the deferral shall apply. The application shall be accompanied by any documentation required to be submitted pursuant to subsection a. of this section.

6. a. In reliance, to the extent necessary, on the eligibility confirmation required pursuant to paragraph (1) of subsection a. of section 5 of P.L. , c. (C. ) (pending before the Legislature as this bill), and following the prioritization requirements of subsection e. of section 12 of P.L. , c. (C. ) (pending before the Legislature as this bill), the tax collector shall approve or deny each application for a tax deferral, and shall notify each applicant by December 1 whether or not they will obtain a tax deferral during the ensuing year.

b. The notification required by subsection a. of this section shall also alert the applicant as to whether there are any delinquent charges or existing liens on the residence resulting from overdue balances for local government and utility assessments.

(1) If the delinquent charges are less than or equal to the amount of the deferral award, then, pursuant to paragraph (1) of subsection d. of section 4 of P.L. , c. (C. ) (pending before the Legislature as this bill), the tax collector shall apply the tax deferral payment to pay off the delinquency, or redeem the residence if the lien has already been sold at tax sale. At this time, the tax collector shall also notify the applicant, pursuant to paragraph (4) of subsection b. of section 12 of P.L. , c. (C. ) (pending before the Legislature as this bill), that the deferral awarded may be insufficient to cover the full tax deferral the applicant had applied for, and the applicant may be responsible for some, or all, of their property tax payments in the ensuing year.

(2) If the delinquent charges are greater than the amount of the deferral award, then, pursuant to paragraph (2) of subsection d. of section 4 of P.L. , c. (C. ) (pending before the Legislature as this bill), the tax collector shall apply the deferral payment only against new property tax balances. In such case, at the time of the notification required by subsection a. of this section, the tax collector shall also alert the applicant of the existence of the delinquent charges, and that the deferral will not be able to resolve those balances.

7. a. The deferred payments shall continue to be a lien against the residence in the same manner as any other unpaid taxes or assessments, but shall not be subject to foreclosure except as provided in accordance with sections 8 through 10 of P.L.    , c.    (C.        ) (pending before the Legislature as this bill).

b. Interest shall accrue annually on all deferred payments, regardless of what year payments were first deferred or the amount of the deferral, at a rate of one-half of the maximum rate permissible for tax delinquencies in excess of $1,500 pursuant to R.S.54:4-67. However, the director shall have discretionary authority to annually adjust the interest rate on deferred payments by as much as four percentage points higher or lower than such rate based on recent mortgage rate trends.

8. a. Subject to the provisions of section 10 of P.L.    , c.    (C.        ) (pending before the Legislature as this bill), all deferred payments, including accrued interest, shall become payable when:

(1) the eligible senior who claimed the deferral dies;

(2) a judgment of foreclosure is entered against the tax-deferred property, the tax-deferred property is sold or otherwise conveyed, or someone other than the eligible senior who claimed the deferral becomes the owner of the property;

(3) the tax-deferred property is no longer the residence of the eligible senior who claimed the deferral, except in the case of an eligible senior required to be absent from the tax-deferred property by reason of health and temporarily residing in a medical or nursing facility; or

(4) the eligible senior who claimed the deferral enters into a reverse mortgage agreement for the residence.

b. Deferred payment shall constitute a paramount municipal lien pursuant to R.S.54:5-9.

9. Whenever any one of the circumstances listed in subsection a. of section 8 of P.L. , c. (C. ) (pending before the Legislature as this bill) occurs:

a. the deferral of payments for the calendar year subsequent to the year in which the circumstance occurs shall cease, and the total amount of deferred payments for each applicable year shall be due and payable in full, and that tax-deferred property shall be added to the tax roll for that year; and

b. the amounts of deferred payments, including accrued interest, for all years prior to the year in which the circumstance occurs shall be due and payable not later than 30 days after the date on which title to the tax-deferred property is conveyed to another owner.

10. a. Notwithstanding the provisions of section 8 of P.L.    , c.    (C. ) (pending before the Legislature as this bill), when one of the circumstances listed in subsection a. of section 8 of P.L. , c.    (C. ) (pending before the Legislature as this bill) occurs, the spouse of the eligible senior may elect to continue the tax deferred property in its deferred payment status if:

(1) the spouse of the eligible senior is or will be 55 years of age or older not later than six months from the day the circumstance listed in subsection a. of section 8 of P.L. , c. (C. ) (pending before the Legislature as this bill) occurs; and

(2) the tax-deferred property is the residence of the spouse of the eligible senior.

b. The spouse of the eligible senior may continue the property’s deferred payment status through application pursuant to section 5 of P.L. , c. (C. ) (pending before the Legislature as this bill), not later than 90 days from the date the circumstance listed in subsection a. of section 8 of P.L. , c. (C. ) (pending before the Legislature as this bill) occurs.

c. When the spouse of the eligible senior has continued the tax-deferred property in its deferred payment status pursuant to subsection b. of this section, the spouse may also continue the filing of subsequent applications pursuant to section 5 of P.L.    , c.    (C.       ) (pending before the Legislature as this bill).

11. a. Subject to subsection b. of this section, all or part of the deferred payments and accrued interest may at any time be paid to the tax collector by:

(1) the eligible senior or the spouse or child of the eligible senior; or

(2) a person having or claiming a legal or equitable interest in the tax-deferred property.

b. A person having or claiming a legal or equitable interest in the tax-deferred property may make payments only if no objection is made by the eligible senior within 10 days after the tax collector provides notice to the eligible senior, by certified mail, of the fact that payment has been tendered.

c. Any payment made under this section shall be applied first against accrued interest and any remainder against the deferred payments, starting with the oldest deferred payments. Payment shall not affect the deferred status of the tax-deferred property. Unless otherwise provided by law, payment shall not give the person paying the taxes any interest in the property or any claim against the estate of the eligible senior or spouse of the eligible senior, in the absence of a valid agreement to the contrary.

12. a. The State annually shall pay the tax collector of each municipality the total amount of deferred payments applied for within that municipality pursuant to section 4 of P.L.    , c.    (C.        ) (pending before the Legislature as this bill) plus two percent.

b. (1) Following the receipt of tax deferral applications by April 1 pursuant to subsection b. of section 5 of P.L. , c. (C.        ) (pending before the Legislature as this bill), the tax collector shall notify the director by May 1 preceding the calendar year for which the deferrals shall apply of the number of applicants, and the amount of funding necessary for all applicants’ prospective tax deferrals in that municipality.

(2) By September 1 preceding the calendar year for which the deferrals shall apply, the director shall notify the tax collector of each municipality of the amount of funding to be allocated by the State towards tax deferrals in the municipality, and if that amount is limited pursuant to subsection d. of this section.

(3) Following the prioritization requirements stipulated by subsection e. of this section, the tax collector shall notify applicants by December 1 whether or not they will obtain a tax deferral during the ensuing year.

(4) If at any time it becomes apparent to the tax collector that the deferral funding provided by the State will be insufficient to cover the full tax deferral the applicant had applied for, the tax collector shall notify the applicant of the additional payment owed.

c. The tax collector of each municipality shall refund back to the State the amount paid by the State pursuant to subsection a. of this section in installments upon collection of the deferred payments pursuant to sections 8 or 11 of P.L. , c. (C. ) (pending before the Legislature as this bill), along with all interest accrued pursuant to subsection b. of section 7 of P.L. , c. (C. ) (pending before the Legislature as this bill). However, out of each refund payment back to the State, the tax collector, in his or her discretion, may retain up to $25 per each annual deferral granted in order to fund administrative costs associated with the tax collector’s responsibilities under P.L. , c. (C. ) (pending before the Legislature as this bill). Funding paid by the State to the tax collector pursuant to subsection a. of this section that is not used for tax deferral payments shall also be refunded to the State. Refund payments shall be deposited into the "Senior Citizens Property Tax Deferral Fund."

d. If, during any year, the amount of funding dedicated to tax deferral payments through the annual appropriations act, in combination with the amount available through the "Senior Citizens Property Tax Deferral Fund," is less than the total amount applied for by eligible seniors within the limitations imposed pursuant to section 4 of P.L. , c. (C. ) (pending before the Legislature as this bill), then the amount paid to each tax collector shall be allocated pro rata, based on the amount of deferred payments that eligible seniors apply and qualify for within each municipality.

e. Within the limitations imposed pursuant to section 4 of P.L.    , c.    (C.        ) (pending before the Legislature as this bill), the tax collector shall account for the full tax deferral for as many eligible senior applicants as possible. If the amount of funding dedicated to tax deferral payments pursuant to subsection d. of this section is limited, then payment priority shall be given first to eligible seniors who both submit a timely application and had also applied and received a tax deferral in the preceding year. Priority shall then be given based on the date of application receipt.

f. If necessary, a municipality may anticipate in its budget the amount due from the State pursuant to subsections a. and d. of this section.

13. There is established within the general fund the "Senior Citizens Property Tax Deferral Fund" as a nonlapsing revolving fund in the Department of the Treasury. Monies deposited in the fund shall be utilized by the director exclusively for the purposes established under section 12 of P.L. , c. (C. ) (pending before the Legislature as this bill).

14. Intentionally misrepresenting eligibility, the confirmation of which is required pursuant to paragraph (1) of subsection a. of section 5 of P.L. , c. (C. ) (pending before the Legislature as this bill), shall constitute a crime of the fourth degree. Negligently misrepresenting eligibility shall constitute a disorderly persons offense. In addition to any penalties imposed by law, any applicant who violates any provisions of P.L. , c. (C. ) (pending before the Legislature as this bill) shall be subject to a suspension of eligibility for one year for a first offense and permanent revocation of eligibility for a second offense.

15. The Director of the Division of Taxation in the Department of the Treasury shall, on a biennial basis, publish a report to detail the utilization of P.L. , c. (C. ) (pending before the Legislature as this bill). The report shall provide information on the number of seniors who have applied for a deferral, the number who have been awarded a deferral, and any additional information that the director believes is relevant. The report shall be published on the Internet website of the division.

16. The Director of the Division of Taxation in the Department of the Treasury shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of P.L.    , c.    (C.        ) (pending before the Legislature as this bill).

17. Sections 1 through 15 of this act shall take effect on the first day of the first calendar year following enactment. Section 16 shall take effect immediately.

STATEMENT

This bill allows New Jersey seniors, 65 years of age and older, whose annual household income, for federal tax purposes, is under $50,000 to also qualify for an annual deferral of property tax payments. Deferral eligibility is further limited to persons whose primary residence does not have a reverse mortgage, and has a value of under $500,000.

A senior eligible for a deferral, or a person acting on behalf of the senior, would file an application with the tax collector of the municipality in which the residence is located by April 1 of the year preceding the tax year that the deferral would cover, and submit any documentation required to ascertain that the applicant qualifies for the deferral. The amount of an annual deferral cannot exceed 110 percent of the taxes assessed and levied on the residence for the preceding year, as adjusted to incorporate any rebates, credits, deductions, or exemptions that are not received later, but incorporated into the property tax bill itself. Deferral payments will not be permitted beyond 75 percent of a home’s equity. Receipt of a deferral will not limit the amount that may later be received through the homestead property tax reimbursement program, P.L.1997, c.348 (C.54:4-8.67 et al.). Interest will accrue on deferred payments at a rate of nine percent, which is one half of the maximum rate permissible for delinquent taxes pursuant to R.S.54:4-67. However, the Director of the Division of Taxation will have discretion to annually alter this rate by as much as four percentage points higher or lower in response to mortgage rate trends.

Deferral payments shall become due upon the death of the senior, the conveyance of the property, upon entrance into any reverse mortgage agreement, or if the home ceases to be the primary residence of the eligible senior for reasons other than health complications. A spouse of a deceased senior of age 55 or older will be able to continue the property’s deferred status, subject to the 75 percent equity limit.

In order to avoid an unfunded mandate, this bill requires that the State annually pay each municipality for the deferrals that eligible senior residents have applied for. The tax collector is required to reimburse the State, including all interest accrued for each deferral, upon receipt of the payment deferred from each eligible senior. At the time of this return payment, the tax collector’s office is permitted to keep up to $25 per annual deferral granted, in order to account for any administrative costs incurred. In other words, if a senior receives a deferral each year for four years, the tax collector would be entitled to keep as much as $100 in administrative expenses when that deferral is fully repaid to the State. Refund payments to the State shall be deposited into the "Senior Citizens Property Tax Deferral Fund," a revolving fund to be established in the Department of the Treasury.

If the State limits the amount of funding dedicated to property tax deferral reimbursement payments for any year through the annual appropriations act, and revolving fund monies are insufficient for all applications, then the amount annually paid from the State to each municipality will be allocated proportionally to the amount that eligible seniors within each municipality have applied and qualified for. Each municipal tax collector would then award tax deferrals to seniors with priority going first to those who received a deferral in the previous year, and next to the earliest applications.

Misrepresenting eligibility could constitute a crime of the fourth degree, or a disorderly persons offense, depending on whether the misrepresentation was intentional or only negligent.

The bill directs the Division of Taxation to adopt regulations to implement the program, and biennially report on the utilization of the program.