
HOUSE BILL 1689

State of Washington**54th Legislature****1995 Regular Session**

By Representatives Chandler, Grant, G. Fisher, Van Luven, L. Thomas, Boldt, Kremen, Backlund, Lambert, Johnson, McMorris, Morris, Quall, Campbell, Costa, Benton, Mulliken, Kessler and Mastin

Read first time 02/03/95. Referred to Committee on Finance.

1 AN ACT Relating to property tax deferral for distressed taxpayers;
2 adding a new chapter to Title 84 RCW; creating a new section;
3 prescribing penalties; providing an effective date; and declaring an
4 emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **DISTRESSED PROPERTY TAXPAYER'S DEFERRAL PROGRAM**

7 NEW SECTION. **Sec. 1.** FINDINGS AND INTENT. With the rapid rise in
8 property values and the corresponding increases in property tax
9 liability, it has become increasingly difficult for many homeowners to
10 pay the increased taxes due on real property and they are being forced
11 to either borrow money to pay the unexpected increases or to sell their
12 residences because of an inability to pay the tax. The legislature
13 intends to allow those homeowners whose property tax liability in any
14 one year has exceeded four percent of their combined disposable income
15 for that year to defer the amount of the real property taxes that
16 exceeds four percent. This deferral program is intended to assist
17 homeowners in maintaining their homes by easing the increases in tax

1 and maintaining their dignity while still paying their appropriate
2 share of the property tax burden.

3 **NEW SECTION.** **Sec. 2.** DEFINITIONS. Unless the context clearly
4 requires otherwise, the definitions used in this section apply
5 throughout this chapter.

6 (1) "Claimant" means a person who elects to defer payment of real
7 property taxes by filing a claim to defer as provided in this chapter.

8 (2) "Combined disposable income" means the disposable income of the
9 person claiming the exemption, plus the disposable income of his or her
10 spouse, and the disposable income of each cotenant occupying the
11 residence for the preceding calendar year.

12 (3) "Cotenant" means a person who resides with the claimant and who
13 has an ownership interest in the real property.

14 (4) "Disposable income" means adjusted gross income as defined in
15 the federal internal revenue code, as now or hereafter amended, plus
16 all of the following items to the extent they are not included in or
17 have been deducted from adjusted gross income:

18 (a) Capital gains, other than nonrecognized gain on the sale of a
19 principal residence under section 1034 of the federal internal revenue
20 code, or gain excluded from income under section 121 of the federal
21 internal revenue code to the extent it is reinvested in a new principal
22 residence;

23 (b) Amounts deducted for loss;

24 (c) Amounts deducted for depreciation;

25 (d) Pension and annuity receipts;

26 (e) Military pay and benefits other than attendant-care and
27 medical-aid payments;

28 (f) Veterans' benefits other than attendant-care and medical-aid
29 payments;

30 (g) Federal social security act and railroad retirement benefits;

31 (h) Dividend receipts; and

32 (i) Interest received on state and municipal bonds.

33 (5) "Equity value" means the amount by which the true and fair
34 market value of residence as determined from the records of the county
35 assessor exceeds the total amount of any liens or other obligations
36 against the real property.

1 (6) "Excess property taxes" and "excess property tax levies" mean
2 a tax levy by or for a taxing district that is not subject to the
3 aggregate limitation set forth in RCW 84.52.043 and 84.52.050.

4 (7) "Real property" has the same meaning as provided in RCW
5 84.04.090. In addition, "real property" includes a mobile home that
6 has substantially lost its identity as a mobile unit by virtue of its
7 being fixed in location upon land owned by the owner of the mobile home
8 and placed on a foundation, posts or blocks, with fixed pipe,
9 connections with sewer, water, or other utilities.

10 (8) "Real property taxes" means the total regular and excess
11 property tax levies on property within this state as authorized by law.

12 (9) "Regular property taxes" and "regular property tax levies" have
13 the same meaning as provided in RCW 84.04.140.

14 (10) "Residence" means a single-family dwelling unit whether the
15 unit is separate or part of a multi-unit dwelling, including the land
16 on which the dwelling stands not to exceed one acre. "Residence" also
17 includes a share ownership in a cooperative housing association,
18 corporation, or partnership if the person claiming exemption can
19 establish that his or her share represents the specific unit or portion
20 of the structure in which he or she resides. "Residence" also includes
21 a single-family dwelling situated upon lands the fee of which is vested
22 in the United States or an instrumentality of the United States
23 including an Indian tribe or in the state of Washington, and
24 notwithstanding RCW 84.04.080 or 84.04.090, such a residence is deemed
25 real property.

26 NEW SECTION. **Sec. 3.** DEFERRAL AUTHORIZED. A claimant may apply
27 to defer payment of that amount of real property taxes imposed that
28 exceeds four percent of the claimant's combined disposable income up to
29 a maximum dollar amount equal to fifty percent of the claimant's equity
30 value in the property for which the deferral is requested.

31 NEW SECTION. **Sec. 4.** CONDITIONS OF DEFERRAL. The following
32 conditions must be met in order to be eligible for the deferral program
33 established in this chapter:

34 (1) The real property taxes must have been imposed upon a residence
35 that was occupied by the claimant as a principal place of residence as
36 of the first day of January of the year for which the deferral is
37 claimed;

1 (2) The claimant must have owned, at the time of filing, in fee, as
2 a life estate, or by contract purchase, the residence on which the
3 property taxes have been imposed or if the claimant lives in a
4 cooperative housing association, corporation, or partnership, the
5 person must own a share in the cooperative representing the unit or
6 portion of the structure in which he or she resides. For purposes of
7 this subsection, a residence owned by a marital community or owned by
8 cotenants is deemed to be owned by each spouse or cotenant, and a lease
9 for life is deemed a life estate;

10 (3) The claimant must submit acceptable proof of his or her total
11 combined disposable income for the year for which the deferral is
12 claimed;

13 (4) The claimant must show adequate proof that there is in force
14 fire and casualty insurance on the residence for which the deferral is
15 claimed in an amount sufficient to protect the interest of the state in
16 the claimant's equity value. If the claimant fails to or cannot
17 maintain adequate fire and casualty insurance as required to protect
18 the state's interest in the claimant's equity value, the amount
19 deferred may not exceed eighty percent of the claimant's equity value
20 in the land or lot only; and

21 (5) The claimant may not be receiving or applying for another
22 exemption or deferral provided under this title.

23 NEW SECTION. **Sec. 5.** CLAIM TO DEFER REAL PROPERTY TAXES--NOTICE--
24 FILING--CONTENTS--APPEAL. (1) The department and each local assessor
25 shall publicize the eligibility requirements and manner of submitting
26 a claim for a deferral under this chapter as the department or assessor
27 deems appropriate. At a minimum, the department or the assessor shall
28 provide notice of the availability of this deferral program, the method
29 for making a deferral claim, the penalties for false claims or not
30 reporting changes in status, and the availability of more detailed
31 information on or with the property tax notices and revaluation notices
32 for all residential real property.

33 (2) A written claim for the deferral of real property taxes as
34 provided by this chapter:

35 (a) Must be made and filed annually by the claimant with the county
36 assessor on forms adopted by the department and supplied by the county
37 assessor;

1 (b) May not be granted for more than one tax year under any
2 circumstances; and

3 (c) Must be filed no later than thirty days before the real
4 property tax assessment is due. However, for good cause shown, the
5 department may waive this requirement.

6 (3) The written claim for deferral of real property taxes must at
7 a minimum contain the following information:

8 (a) The legal description of the residence for which the deferral
9 is claimed;

10 (b) A list of all members of the claimant's household;

11 (c) The claimant's equity value in the residence at the time the
12 claim is made;

13 (d) Facts establishing the eligibility for deferral under this
14 chapter; and

15 (e) Other relevant information required by rule adopted by the
16 department.

17 (4) A claim and renewal for deferral under this chapter must be
18 made and signed by the claimant or by the claimant's attorney in fact,
19 subject to the penalties as provided in chapter 9.72 RCW for false
20 swearing. If the residence of the person is under mortgage, contract
21 of sale, or deed of trust requiring accumulation of reserves out of
22 which the holder of the mortgage, contract of sale, or deed of trust is
23 required to pay real property taxes, the holder of the mortgage,
24 contract of sale, or deed of trust must cosign the claim for deferral
25 before a notary public or the county assessor or his or her deputy in
26 the county where the residence is located. If a claim for exemption is
27 made by a person living in a cooperative housing association,
28 corporation, or partnership, the claim must be made and signed by the
29 claimant and by the authorized agent of the cooperative.

30 (5) If the claimant is unable to submit his or her own claim for
31 deferral, the claim must be submitted by a duly authorized agent or by
32 a guardian or other person charged with the care of the person or
33 property of the claimant.

34 (6) A claim for deferral and a renewal application must be
35 accompanied by documented verification of income as prescribed by this
36 chapter and other documentation required by rule adopted by the
37 department.

38 (7) A person signing a false claim with the intent to defraud or
39 evade the payment of tax is guilty of the offense of perjury.

1 (8) The real property taxes of a cooperative housing association,
2 corporation, or partnership must be reduced by the amount of tax
3 deferral to which a claimant residing therein is entitled and the
4 cooperative shall reduce any amount owed by the claimant to the
5 cooperative by the exact amount of tax deferral.

6 (9) In January of each year, the county assessor shall send to each
7 claimant who has been granted deferral of real property taxes for the
8 previous year renewal forms and notice to renew.

9 (10) The county assessor shall determine if each claimant must be
10 granted a deferral for each year claimed, but the claimant may appeal
11 this determination to the county board of equalization, whose decision
12 is final as to the deferral of that year.

13 NEW SECTION. **Sec. 6.** CEASING TO RESIDE PERMANENTLY ON PROPERTY
14 SUBJECT TO DEFERRAL DECLARATION. If the claimant declaring his or her
15 intention to defer real property taxes under this chapter ceases to
16 reside permanently on the property for which the claim to defer is made
17 between the date of filing the claim and December 15th of that year,
18 the deferral otherwise allowable under this chapter may not be allowed
19 on the tax roll. However, this section does not apply if the claimant
20 dies, leaving a spouse or cotenant surviving, who is also eligible for
21 the deferral provided in this chapter.

22 NEW SECTION. **Sec. 7.** LIEN OF STATE, MORTGAGE, CONTRACT OF SALE,
23 OR DEED OF TRUST--PRIORITY--AMOUNT--INTEREST. (1) If a portion of a
24 claimant's real property taxes is deferred under this chapter, the
25 amount deferred and required to be paid under section 10 of this act
26 becomes a lien in favor of the state upon the property for which the
27 deferral is granted and has priority as provided in chapters 35.50 and
28 84.60 RCW. However, the interest of a mortgage, contract of sale, or
29 deed of trust holder who is required to cosign a claim for deferral
30 under section 5 of this act has priority to the deferred lien.

31 (2) The lien of the state may accumulate up to fifty percent of the
32 amount of the claimant's equity value in the property for which the
33 deferral is granted and must bear interest at the rate of twelve
34 percent per year from the time the claim for deferral is granted until
35 the obligation is paid.

1 (3) For a mobile home that is considered real property as provided
2 in this title, the department of licensing shall show the state's lien
3 on the certificate of ownership for the mobile home.

4 (4) For other real property, the department shall file a notice of
5 the deferral and the state's lien with the county recorder or auditor.

6 NEW SECTION. **Sec. 8.** DUTIES OF THE COUNTY ASSESSOR. The county
7 assessor shall:

8 (1) Immediately transmit one copy of a claim to defer real property
9 taxes under this chapter to the department. The department may audit
10 a claim and shall notify the assessor as soon as possible of a claim in
11 which a factor appears to disqualify the claimant for the deferral
12 sought;

13 (2) Compute the real property tax rates for the property located
14 within the county as if a deferral provided by this chapter did not
15 exist; and

16 (3) As soon as possible notify the department and the county
17 treasurer of the amount of real property taxes deferred for that year.

18 NEW SECTION. **Sec. 9.** PAYMENTS TO COUNTIES. After receipt of the
19 notification from the county assessor of the amount of real property
20 taxes deferred under this chapter, the department shall pay, from
21 amounts appropriated for that purpose, to the county treasurers an
22 amount equivalent to the total amount so deferred on real property
23 located within the county.

24 NEW SECTION. **Sec. 10.** WHEN DEFERRED REAL PROPERTY TAXES BECOME
25 PAYABLE. A real property tax deferred under this chapter becomes due
26 and payable together with interest as provided in section 7 of this
27 act:

28 (1) Upon the sale of the property that has a deferred real property
29 tax lien upon it;

30 (2) Upon the death of the claimant with an outstanding deferred
31 real property tax lien. However, a surviving spouse or cotenant who
32 remains eligible for a deferral under this chapter may elect to incur
33 the real property tax lien which is then payable by that spouse or
34 cotenant as provided in this section;

1 (3) Upon the condemnation of property with a deferred real property
2 tax lien upon it by a public or private body exercising eminent domain
3 power, except as otherwise provided in RCW 84.60.070;

4 (4) At the time the claimant ceases to reside permanently in the
5 residence for which the deferral has been granted; or

6 (5) Upon the failure of a condition set forth in section 4 of this
7 act.

8 NEW SECTION. Sec. 11. COLLECTION OF DEFERRED REAL PROPERTY TAXES.

9 (1) The county treasurer shall collect all the amounts deferred
10 together with interest under this chapter, in the manner provided for
11 in chapter 84.56 RCW. For purposes of collection of deferred real
12 property taxes, chapters 84.56, 84.60, and 84.64 RCW apply.

13 (2) When a deferred real property tax, together with interest, is
14 collected the moneys must be credited to a special account in the
15 county treasury. The county treasurer shall remit the amount of
16 deferred real property tax together with interest to the department
17 within thirty days from the date of collection.

18 (3) The department shall deposit the deferred real property taxes
19 in the state general fund.

20 NEW SECTION. Sec. 12. ELECTION TO CONTINUE DEFERRAL BY SURVIVING
21 SPOUSE OR COTENANT. (1) A surviving spouse of the claimant may elect
22 to continue the property in its deferred tax status if the property is
23 the residence of the spouse or cotenant of the claimant and the spouse
24 or cotenant meets the requirements of this chapter.

25 (2) The election under this section to continue the property in its
26 deferred status by the spouse or cotenant of the claimant must be filed
27 in the same manner as an original claim for deferral is filed under
28 this chapter, not later than ninety days from the date of the
29 claimant's death. Thereupon, the property with respect to which the
30 deferral of real property taxes is claimed continues to be treated as
31 deferred property. When the property has been continued in its
32 deferred status by the filing of the spouse or cotenant of the claimant
33 of an election under this section, the spouse or cotenant of the
34 claimant may continue the property in its deferred status in subsequent
35 years by filing a claim under this chapter so long as the spouse or
36 cotenant meets the qualifications set out in this section.

1 NEW SECTION. **Sec. 13.** PAYMENT OF PART OR ALL OF DEFERRED TAXES
2 AUTHORIZED. A claimant may at any time pay a part or all of the
3 deferred real property taxes, but the payment does not affect the
4 deferred tax status of the property.

5 NEW SECTION. **Sec. 14.** COLLECTION OF PERSONAL PROPERTY TAXES NOT
6 AFFECTED. This chapter is not intended to or may not be construed to
7 prevent the collection, by foreclosure, of personal property taxes that
8 become a lien against tax-deferred property.

9 NEW SECTION. **Sec. 15.** FORMS AND RULES. The department shall
10 devise the forms and adopt rules consistent with chapter 34.05 RCW and
11 this chapter as are necessary or desirable to permit its effective
12 administration.

13 NEW SECTION. **Sec. 16.** Sections 1 through 15 of this act shall
14 constitute a new chapter in Title 84 RCW.

15 NEW SECTION. **Sec. 17.** PART HEADINGS AND CAPTIONS. Part headings
16 and captions as used in this act constitute no part of the law.

17 NEW SECTION. **Sec. 18.** If any provision of this act or its
18 application to any person or circumstance is held invalid, the
19 remainder of the act or the application of the provision to other
20 persons or circumstances is not affected.

21 NEW SECTION. **Sec. 19.** This act is necessary for the immediate
22 preservation of the public peace, health, or safety, or support of the
23 state government and its existing public institutions, and shall take
24 effect July 1, 1995.

--- END ---