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HOUSE BILL 2796

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State of Washington

54th Legislature

1996 Regular Session

By Representatives Dickerson, Conway, Cody, Patterson, Jacobsen, Scheuerman, Ogden, Costa, Chopp and Romero; by request of Governor Lowry

Read first time 01/19/96. Referred to Committee on Finance.

1 AN ACT Relating to homeowner's property tax deferral; adding a new  
2 chapter to Title 84 RCW; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** Historically, taxation of property has been  
5 a tax upon wealth, but increasingly, ownership of a home is not  
6 necessarily an indication of ability to pay property taxes. In some  
7 instances, as property values rise and equity in a home increases, the  
8 ability of taxpayers to gain access to the funds needed to pay their  
9 property taxes means borrowing against or even selling their homes.  
10 Over the years, increases in property taxes have exceeded increases in  
11 household incomes. Homeowners who are faced with the loss of a job,  
12 death of a spouse, or other hardship should not be required to give up  
13 their home primarily because of property tax increases. It is  
14 therefore the intent of the legislature to ease the property tax burden  
15 and aid homeowners who qualify for this program to maintain their  
16 dignity and a reasonable standard of living by residing in their own  
17 homes, providing for their own needs, and managing their own affairs  
18 without requiring welfare assistance from the state.

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

4        (1) "Claimant" means a person who elects to defer payment of the  
5 real property taxes accrued on the claimant's residence by filing a  
6 declaration to defer as provided by this chapter.

7        If two or more individuals of a household file or seek to file a  
8 declaration to defer, they may determine between or among them as to  
9 who is the claimant.

10       (2) "Cotenant" means a person who resides with the person claiming  
11 the deferral and who has an ownership interest in the residence.

12       (3) "Department" means the department of revenue of the state of  
13 Washington.

14       (4) "Equity value" means the amount by which the fair market value  
15 of a residence as determined from the records of the county assessor  
16 exceeds the total amount of any liens or other obligations against the  
17 property.

18       (5) "Real property taxes" means ad valorem property taxes levied on  
19 a residence in this state in the preceding calendar year.

20       (6) "Residence" has the meaning given in RCW 84.36.383, except that  
21 a residence includes any additional property up to a total of five  
22 acres that comprises the residential parcel if this larger parcel size  
23 is required under land use regulations.

24       NEW SECTION.        **Sec. 3.**        A claimant may defer payment of real  
25 property taxes on the claimant's primary residence to the extent that  
26 the total of the taxes in the year the declaration is filed exceeds  
27 five percent of the amount determined in subsection (2) of this  
28 section, on up to eighty percent of the amount of the claimant's equity  
29 value in the claimant's residence, if the following conditions are met:

30       (1) The claimant must meet all requirements for an exemption for  
31 the residence under RCW 84.36.381(1);

32       (2) The claimant must have adjusted gross income, together with the  
33 adjusted gross income of the claimant's spouse, and the adjusted gross  
34 income of each cotenant occupying the residence, of fifty thousand  
35 dollars or less, in the calendar year preceding the filing of the  
36 declaration. Adjusted gross income has the meaning defined in the  
37 federal internal revenue code, as amended before January 1, 1996, or

1 such subsequent date as the director may provide by rule consistent  
2 with the purpose of this section;

3 (3) The claimant must have owned, at the time of filing, the  
4 residence on which the real property taxes have been imposed. For  
5 purposes of this subsection, a residence owned by a marital community  
6 or owned by cotenants must be deemed to be owned by each spouse or  
7 cotenant. A claimant who has only a share ownership in cooperative  
8 housing, a life estate, a lease for life, or a revocable trust does not  
9 satisfy the ownership requirement; and

10 (4) The claimant must have and keep in force fire and casualty  
11 insurance in sufficient amount to protect the interest of the state in  
12 the claimant's equity value. If the claimant fails to keep fire and  
13 casualty insurance in force to the extent of the state's interest in  
14 the claimant's equity value, the amount deferred shall not exceed one  
15 hundred percent of the claimant's equity value in the land or lot only.

16 NEW SECTION. **Sec. 4.** (1) A claimant electing to defer payment of  
17 real property taxes under this chapter shall annually file with the  
18 county assessor, on forms prescribed by the department and supplied by  
19 the assessor, a written declaration of the election. The claimant  
20 shall file the declaration to defer payment of real property taxes in  
21 duplicate by July 31st of the year the taxes are due. For good cause  
22 shown the department may waive this filing deadline.

23 (2) The declaration must designate the property to which the  
24 deferral applies and must include a statement setting forth: A list of  
25 all members of the claimant's household; the claimant's equity value in  
26 the claimant's residence; facts establishing the eligibility for the  
27 deferral under this chapter; and other relevant information required by  
28 rule of the department. The claimant shall sign each copy, subject to  
29 the penalties as provided in chapter 9A.72 RCW for false swearing.

30 (3) The county assessor shall determine if the claimant is to be  
31 granted a deferral but the claimant may appeal this determination to  
32 the county board of equalization, whose decision is final as to the  
33 deferral of that year.

34 (4) The county treasurer shall issue a tax statement or revised tax  
35 statement for each claimant granted deferral under this chapter. The  
36 tax statement must state the amount of tax to be paid by the claimant  
37 and the amount of tax to be paid by the state.

1        NEW SECTION.    **Sec. 5.**    A person's right to defer real property  
2 taxes on the person's residence may not be limited by contract or  
3 agreement, from the effective date of this act and thereafter.

4        NEW SECTION.    **Sec. 6.**    If a residence is under mortgage, deed of  
5 trust, or purchase contract requiring accumulation of reserves out of  
6 which the holder of the mortgage, deed of trust, or contract is  
7 required to pay real property taxes, the holder shall cosign the  
8 declaration of deferral either before a notary public or the county  
9 assessor or the county assessor's deputy in the county where the real  
10 property is located.

11       NEW SECTION.    **Sec. 7.**    (1) If a person's real property taxes are  
12 deferred under this chapter, the amount deferred and required to be  
13 paid under section 9 of this act becomes a lien in favor of the state  
14 upon the person's property and has priority as provided in chapter  
15 84.60 RCW. The interest of a mortgage, deed of trust, or purchase  
16 contract holder who is required to cosign a declaration of deferral  
17 under section 6 of this act, has priority to the deferred lien. The  
18 lien may accumulate up to eighty percent of the amount of the  
19 claimant's equity value in the property and must bear interest at the  
20 rate of eight percent per year from the time it could have been paid  
21 before delinquency until the taxes are paid. For a mobile home, the  
22 department of licensing shall show the state's lien on the certificate  
23 of ownership for the mobile home. For all other property, the  
24 department of revenue shall file a notice of the deferral with the  
25 county recorder or auditor.

26        (2) Real property taxes not deferred under this chapter or as  
27 otherwise provided by law are due and payable as provided in chapter  
28 84.56 RCW.

29       NEW SECTION.    **Sec. 8.**    The county assessor shall:

30        (1) Immediately transmit one copy of each declaration to defer to  
31 the department. The department may audit a declaration and shall  
32 notify the assessor as soon as possible of a claim if a factor appears  
33 to disqualify the claimant for the deferral sought;

34        (2) Compute the dollar tax rate for the county as if deferrals  
35 provided by this chapter did not exist; and

1 (3) As soon as possible notify the department and the county  
2 treasurer of the amount of real property taxes deferred under this  
3 chapter for that year.

4 NEW SECTION. **Sec. 9.** (1) After receipt of the notification from  
5 the county assessor of the amount of deferred real property taxes under  
6 this chapter, the department shall certify to the state treasurer the  
7 amount due the respective municipal corporations and the state  
8 treasurer shall pay, from amounts appropriated for that purpose, to the  
9 treasurers of the municipal corporations the amounts, equivalent to the  
10 amount of real property taxes deferred, to be distributed to the taxing  
11 districts which levied the taxes so deferred.

12 (2) The state is not liable for payment of any interest or penalty  
13 related to real property taxes that are delinquent, regardless of  
14 whether the delinquency is attributable to the state. The claimant  
15 shall pay any interest or penalty attributable to the claimant.

16 (3) If the claimant has, at the time of filing the declaration to  
17 defer, already paid a portion of the claimant's real property taxes for  
18 the current year, any portion paid that exceeds the amount of real  
19 property tax that would have been allowed to be deferred under this  
20 chapter must be deducted from the amount to be paid by the state.

21 NEW SECTION. **Sec. 10.** Real property taxes deferred under this  
22 chapter become payable, together with interest as provided in section  
23 7 of this act:

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

26 (2) Upon the death of the claimant owning property with an  
27 outstanding real property tax lien, except that a surviving spouse or  
28 cotenant who is qualified under this chapter may elect to incur the  
29 real property tax lien which shall then be payable by that spouse or  
30 cotenant as provided in this section;

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

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

36 (5) Upon foreclosure proceedings initiated in accordance with  
37 chapter 84.64 RCW.

1        NEW SECTION.    **Sec. 11.**    (1) Upon the occurrence of an event listed  
2 in section 10 of this act, the county treasurer shall collect all the  
3 amounts deferred under this chapter, together with interest, in the  
4 manner provided in chapter 84.56 RCW. For purposes of collection of  
5 deferred taxes, chapters 84.56, 84.60, and 84.64 RCW apply.

6        (2) If deferred real property taxes together with interest are  
7 collected the moneys must be credited to a special account in the  
8 county treasury. The county treasurer shall remit the amount of  
9 deferred real property taxes together with interest to the state  
10 treasurer within thirty days from the date of collection.

11        (3) The state treasurer shall deposit the deferred taxes in the  
12 state general fund.

13        NEW SECTION.    **Sec. 12.**    (1) A surviving spouse of the claimant or  
14 cotenant may elect to continue the property in its deferred tax status  
15 if the property is the residence of the cotenant or the spouse of the  
16 claimant and the cotenant or spouse meets the requirements of this  
17 chapter.

18        (2) The election under this section to continue the property in its  
19 deferred status by the cotenant or spouse of the claimant must be filed  
20 in the same manner as an original declaration for deferral is filed  
21 under this chapter within ninety days from the date of the claimant's  
22 death. Thereupon, the property with respect to which the deferral of  
23 real property taxes is claimed must continue to be treated as deferred  
24 property. If the property has been continued in its deferred status by  
25 the filing of the cotenant or spouse of the claimant of an election  
26 under this section, the cotenant or spouse of the claimant may continue  
27 the property in its deferred status in subsequent years by filing a  
28 declaration under this chapter and meeting the requirements of this  
29 chapter. For good cause shown, the department may waive the ninety-day  
30 filing deadline.

31        NEW SECTION.    **Sec. 13.**    A person may at any time pay a part or all  
32 of the deferred taxes. If a partial payment is made, there is no  
33 affect on the deferred tax status of the property.

34        NEW SECTION.    **Sec. 14.**    This chapter is not intended to nor may it  
35 be construed to prevent the collection, by foreclosure, of personal

1 property taxes or special assessments that become a lien against tax-  
2 deferred property.

3 NEW SECTION. **Sec. 15.** The department shall devise the forms and  
4 adopt rules consistent with chapter 34.05 RCW and this chapter as are  
5 necessary or desirable to permit the effective administration of this  
6 chapter.

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

9 NEW SECTION. **Sec. 17.** This act applies to taxes levied in 1996  
10 for collection in 1997 and thereafter.

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