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SENATE BILL 25-261

BY SENATOR(S) Amabile and Kirkmeyer, Bridges, Gonzales J., Rich;
also REPRESENTATIVE(S) Bird and Sirota, Taggart, Titone.

CONCERNING THE ADMINISTRATION OF THE PROPERTY TAX DEFERRAL PROGRAM, AND, IN CONNECTION THEREWITH, REVERSING THE 2022 SHIFT OF ADMINISTRATIVE RESPONSIBILITIES FOR THE PROGRAM FROM COUNTY TREASURERS TO THE STATE TREASURER, RESCINDING ELIGIBILITY FOR DEFERRAL FOR PERSONS WHO ARE NOT SENIORS OR PERSONS CALLED INTO ACTIVE MILITARY SERVICE, AND MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 39-3.5-101, **repeal** (2.5) and (3.5) as follows:

39-3.5-101. Definitions. As used in this article 3.5, unless the context otherwise requires:

(2.5) ~~"State treasurer" includes a third-party administrator that enters into a contract with the state treasurer to administer the property tax deferral program created in this article 3.5 in accordance with section 39-3.5-103.5~~

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(2).

(3.5) "Tax-growth cap" means:

~~(a) For property tax years commencing before January 1, 2025, an amount equal to the average of a person's real property taxes paid on the same homestead for the two property tax years preceding the year a deferral is claimed, increased by four percent; and~~

~~(b) For property tax years commencing on or after January 1, 2025, an amount equal to the average of a person's real property taxes paid on the same homestead for the two property tax years preceding the year a deferral is claimed.~~

SECTION 2. In Colorado Revised Statutes, 39-3.5-102, **amend** (1)(a), (2) introductory portion, (2)(a), and (2.5)(a); and **repeal** (1)(c) and (2.5)(b) as follows:

39-3.5-102. Deferral of tax on homestead - qualifications - filing of claim. (1) (a) Subject to the provisions of this article 3.5, a person who is sixty-five years of age or older or who is a person called into military service on January 1 of the year in which the person files a claim under this section may elect to defer the payment of real property taxes. To exercise this option, the taxpayer must file a claim for deferral with the ~~state~~ treasurer OF THE COUNTY IN WHICH THE TAXPAYER'S HOMESTEAD IS LOCATED. The claim must be filed after January 1 and on or before April 1 of each year in which the taxpayer claims the deferral.

~~(c) (I) Subject to the provisions of this article 3.5, including the limitations set forth in subsection (1)(c)(II) of this section, beginning January 1, 2023, a person who is not otherwise eligible for deferral under this section may elect to defer the payment of the portion of real property taxes that exceed the person's tax-growth cap. To exercise this option, the taxpayer must file a claim for deferral with the state treasurer. The taxpayer must file the claim after January 1 and on or before April 1 of each year in which the taxpayer claims the deferral.~~

~~(II) In addition to any other limitations set forth in this article 3.5, the minimum amount of real property taxes that may be deferred under this subsection (1)(c) at one time is one hundred dollars, and the total amount~~

~~of real property taxes that a person may defer under this subsection (1)(c) for all years shall not exceed ten thousand dollars. If a taxpayer's surviving spouse elects to continue deferral under section 39-3.5-112 (1.5)(a), the same total limit applies to the taxpayer and the surviving spouse.~~

~~(HH) A person who previously deferred real property taxes as a person called into military service but is no longer eligible for a new deferral on that basis may defer additional real property taxes under this subsection (1)(c).~~

(2) When a taxpayer who is sixty-five years of age or older OR who is a person called into military service ~~or who is otherwise eligible under subsection (1)(c) of this section~~ files a valid claim for deferral under subsection (1) of this section, it has the effect of:

(a) Deferring the payment of the taxpayer's real property taxes ~~or in the case of a person who is otherwise eligible, a portion of the taxpayer's real property taxes~~, for the calendar year previous to the year in which the claim is filed;

(2.5) (a) A person called into military service may defer only the real property taxes payable in a year in which the person is a person called into military service. A person who is no longer a person called into military service may file a valid claim in a subsequent year to continue the ~~prior allowable~~ deferral of taxes PAYABLE IN A YEAR IN WHICH THE PERSON WAS A PERSON CALLED INTO MILITARY SERVICE.

(b) ~~A person who defers a portion of real property taxes under subsection (1)(c) of this section may file a valid claim in a subsequent year to continue the prior allowable deferral of taxes.~~

SECTION 3. In Colorado Revised Statutes, 39-3.5-103, **amend** (1)(d.5)(I)(B) and (1)(d.5)(II) as follows:

39-3.5-103. Property entitled to deferral. (1) In order to qualify for real property tax deferral under this article 3.5, the property shall meet all of the following requirements at the time the claim is filed and so long thereafter as payment is deferred:

(d.5) (I) Either of the following applies to the property:

(B) The owner of the property is a person called into military service ~~or a person eligible for deferral under section 39-3.5-102 (1)(c)~~ and the total value of all liens of mortgages and deeds of trust on the property, excluding any mortgage or deed of trust that the holder has agreed, on a form designated by the state treasurer, to subordinate to the lien of the state for deferred taxes, is less than or equal to ninety percent of the actual value of the property, as determined by the county assessor; except that, for property tax years commencing on or after January 1, 2023, the limitation on the total value of all liens of mortgages and deeds of trust on the property set forth in this subsection (1)(d.5)(I)(B) does not apply if the owner of the property is a person called into military service ~~and~~ who has a home loan guaranteed by the veterans administration of the United States.

(II) For purposes of this subsection (1)(d.5), the actual value of the property shall be the most recent appraisal by the county assessor as of the time the claim for deferral is submitted TO THE COUNTY TREASURER.

SECTION 4. In Colorado Revised Statutes, **repeal** 39-3.5-103.5 as follows:

39-3.5-103.5. State treasurer - program administration - rules.

~~(1) The state treasurer may conduct a public education campaign about the property tax deferral program created in this article 3.5.~~

~~(2) The state treasurer may contract with a third party to administer the property tax deferral program on behalf of the state treasurer.~~

~~(3) The state treasurer may promulgate rules, in accordance with article 4 of title 24, related to the administration of the property tax deferral program.~~

SECTION 5. In Colorado Revised Statutes, 39-3.5-104, **amend** (1) introductory portion as follows:

39-3.5-104. Claim form - contents. (1) A taxpayer's claim for deferral must be in writing on a form prescribed ~~and supplied~~ by the state treasurer and SUPPLIED BY THE COUNTY TREASURER AND must:

SECTION 6. In Colorado Revised Statutes, 39-3.5-105, **amend** (1); and **repeal** (1.5); and **add** (6) as follows:

39-3.5-105. Listing of tax-deferred property - tax as lien - interest accrual. (1) If eligibility for deferral of homestead property is established as provided in this article 3.5, ~~the state treasurer shall issue a certificate of deferral, which includes the name of the taxpayer, the description of the property, the amount of tax deferred, and the year for which the deferral was granted, and record the certificate of deferral with the county clerk and recorder in the county where the property is located. The state treasurer shall notify the county treasurer of a property's eligibility and provide the county treasurer with the certificate of deferral, and the county treasurer shall:~~

(a) Enter in the county treasurer's records a notation that the property is tax-deferred;

(b) (I) ~~Retain one copy~~ PROMPTLY, UPON DESIGNATION OF THE PROPERTY AS TAX-DEFERRED, ISSUE A CERTIFICATE OF DEFERRAL, ON A FORM PRESCRIBED BY THE STATE TREASURER, THAT INCLUDES THE NAME OF THE TAXPAYER, THE DESCRIPTION OF THE PROPERTY, THE AMOUNT OF TAX DEFERRED, AND THE YEAR FOR WHICH THE DEFERRAL WAS GRANTED. THE COUNTY CLERK AND RECORDER SHALL RECORD THE CERTIFICATE IN THE COUNTY RECORDS AND THEREAFTER SEND A COPY OF THE CERTIFICATE TO THE STATE TREASURER. THE COUNTY TREASURER SHALL GIVE ONE COPY OF THE CERTIFICATE TO THE ASSESSOR AND SHALL RETAIN ONE COPY in the county treasurer's office.

(II) Promptly, upon designation of a mobile home as tax-deferred, the owner of the mobile home shall surrender title to the property to the ~~state treasurer~~ COUNTY CLERK AND RECORDER. The county clerk and recorder shall, pursuant to the provisions of article 29 of title 38, make application with the department of revenue for issuance of a new certificate of title with a record of the lien of the state treasurer. This procedure shall be followed for each subsequent year that the property is deferred. THE COUNTY TREASURER SHALL ISSUE A CERTIFICATE OF DEFERRAL, ON A FORM PRESCRIBED BY THE STATE TREASURER, THAT INCLUDES THE NAME OF THE TAXPAYER, THE DESCRIPTION OF THE PROPERTY, THE AMOUNT DEFERRED, AND THE TAX YEAR FOR WHICH THE DEFERRAL WAS GRANTED, AND SHALL SEND SUCH CERTIFICATE TO THE STATE TREASURER. THE COUNTY TREASURER SHALL GIVE ONE COPY OF THE CERTIFICATE TO THE COUNTY ASSESSOR AND SHALL RETAIN ONE COPY IN THE COUNTY TREASURER'S OFFICE. Upon satisfaction of the lien, the state treasurer shall release the lien

from the title.

~~(1.5) Notwithstanding any provision of law to the contrary, a county clerk and recorder shall not charge a fee for recording the certificate of deferral in accordance with subsection (1) of this section.~~

(6) NO LATER THAN JANUARY 1 OF EACH YEAR, THE STATE TREASURER SHALL PROVIDE TO EACH COUNTY TREASURER A LIST BY OWNER AND ADDRESS OF EACH PROPERTY IN THE TREASURER'S COUNTY THAT IS SUBJECT TO ONE OR MORE PROPERTY TAX DEFERRAL LIENS PURSUANT TO THIS ARTICLE 3.5 AND THE TOTAL AMOUNT OF THE LIEN OR LIENS ON THE PROPERTY AS OF APRIL 30 OF THE PRIOR YEAR.

SECTION 7. In Colorado Revised Statutes, 39-3.5-106, **repeal** (3) as follows:

39-3.5-106. State treasurer to pay county treasurer an amount equivalent to deferred taxes. ~~(3) If a taxpayer defers all or part of the property taxes due for a property tax year and the county treasurer receives a payment from, or on behalf of, the taxpayer so that the total received from the state treasurer and the payer is greater than the taxpayer's property taxes due, then the county treasurer shall refund the excess to the payer of the taxes.~~

SECTION 8. In Colorado Revised Statutes, 39-3.5-107, **amend** (2) as follows:

39-3.5-107. Repayment of loans - release of liens - disposition of payments. ~~(2) A taxpayer must tender repayments of a loan for deferred taxes to the state treasurer, and the state treasurer shall give the taxpayer a receipt therefor. A county treasurer shall not accept a repayment.~~ IF REPAYMENT OF A LOAN FOR DEFERRED TAXES IS TENDERED TO THE COUNTY TREASURER, THE COUNTY TREASURER SHALL ACCEPT PAYMENT, GIVE THE PAYER A RECEIPT FOR THE PAYMENT, AND PROMPTLY TRANSMIT THE MONEY COLLECTED TO THE STATE TREASURER.

SECTION 9. In Colorado Revised Statutes, **amend** 39-3.5-108 as follows:

39-3.5-108. Notice to taxpayer regarding duty to claim deferral

~~annually. As soon as practicable after January 1, the state treasurer shall send a deferral~~ AT THE TIME THE TREASURER SENDS THE ANNUAL PROPERTY TAX notice to any taxpayer who has claimed a deferral of property taxes in the previous calendar year, THE TREASURER SHALL ENCLOSE A DEFERRAL NOTICE. The deferral notice must be substantially in the following form:

To: (name of taxpayer)

If you want to defer the collection of ad valorem property taxes on your homestead for the assessment year ending on December 31, __, you must file a claim for deferral not later than April 1, __, with ~~(state treasurer or the name of third-party administrator, if applicable)~~ THE OFFICE OF THE COUNTY TREASURER. Forms for filing the claims are available at ~~(website and mailing address for state treasurer or third-party administrator, if applicable)~~ THE COUNTY TREASURER'S OFFICE.

If you fail to file your claim for deferral on or before April 1, __, your real property taxes will be due and payable in accordance with the schedule set out in the ENCLOSED tax notice. ~~you separately received from your county treasurer.~~

If you change your permanent address at any time during the assessment year ending on December 31, __, you must notify the ~~state treasurer promptly~~ COUNTY TREASURER.

SECTION 10. In Colorado Revised Statutes, **amend** 39-3.5-109 as follows:

39-3.5-109. Failure to receive notices. Failure to receive the notice provided for in this article 3.5 is not a defense in any proceeding for the collection of taxes or for the foreclosure of a tax lien. ~~Neither the state treasurer nor~~ A county treasurer is NOT personally liable for failure to give such notices.

SECTION 11. Appropriation. For the 2025-26 state fiscal year, \$160,826 is appropriated to the department of the treasury for use by administration. This appropriation is from the general fund. To implement this act, administration may use this appropriation for operating expenses.

SECTION 12. Effective date. This act takes effect July 1, 2025.

SECTION 13. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO