

**HOUSE BILL No. 2769**

By Committee on Taxation

3-18

1 AN ACT concerning property taxation; providing for a property tax  
2 averaging payment plan.

3  
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. (a) Subject to the provisions of this act, a person may elect  
6 to enter into a property tax averaging payment plan. To exercise such  
7 person's option, the taxpayer shall file an application for such a payment  
8 plan with the county treasurer of the county in which the subject property  
9 is located on or before June 15. Once approved by the county treasurer, the  
10 property shall continue to participate in the plan until such time as the  
11 taxpayer notifies the county treasurer to remove the property from the plan  
12 or whenever any of the circumstances in section 5, and amendments  
13 thereto, occurs. The county treasurer shall notify any lienholder of record  
14 on a property on which a property tax averaging payment plan has been  
15 approved on or before July 1 of the first year in which such person  
16 participates in the plan.

17 (b) When the taxpayer is approved for participation in the property  
18 tax averaging payment plan under subsection (a), it shall have the effect  
19 of:

20 (1) Substituting the taxpayer's real property taxes due with an amount  
21 as calculated under the provisions of this section;

22 (2) deferring the payment of part of such person's real property taxes  
23 for the years in which the taxpayer participates in the plan if the taxes  
24 calculated under subsection (c) are less than the taxpayer's real property  
25 taxes due on the property in the current year; and

26 (3) creating a lien for such deferred taxes under paragraph (2).

27 (c) Property taxes under the property tax averaging payment plan  
28 shall be calculated as follows:

29 (1) In the taxable year after the application for participating in the  
30 plan has been filed and approved, the property taxes due on the subject  
31 property shall be taxes as levied in that year;

32 (2) in the second taxable year after the application for participating in  
33 the plan has been filed and approved, the property taxes due on the subject  
34 property shall be the average of the taxes levied in the current year and the  
35 next preceding year;

36 (3) in the third taxable year after the application for participating in

1 the plan has been filed and approved, the property taxes due on the subject  
2 property shall be the average of the taxes levied in that year and the next  
3 two preceding years;

4 (4) in the fourth taxable year after the application for participating in  
5 the plan has been filed and approved, the property taxes due on the subject  
6 property shall be the average of the taxes levied in that year and the next  
7 three preceding years; and

8 (5) in the fifth taxable year after the application for participating in  
9 the plan has been filed and approved, the property taxes due on the subject  
10 property shall be the average of the taxes levied in that year and the next  
11 four preceding years.

12 (d) A person who elects to participate in the property tax payment  
13 plan and subsequently finds that such payment plan will result in a higher  
14 real property tax payment for the year shall pay the amount calculated in  
15 subsection (c). Upon receipt of such excess payment, the county shall first  
16 apply any excess to remove any liens placed on the property for  
17 underpayment of taxes in prior years due to participation in the plan. Any  
18 remaining excess shall be remitted to the property tax averaging  
19 stabilization fund.

20 (e) If a guardian, conservator or attorney-in-fact has been appointed  
21 for a person otherwise qualified to participate in the property tax averaging  
22 payment plan under this act, the guardian, conservator or attorney-in-fact  
23 may act for such person in participating in the plan.

24 Sec. 2. In order to qualify for the property tax averaging payment  
25 plan under this act, the property shall meet all of the following  
26 requirements at the time the claim is filed and so long thereafter as  
27 payment is deferred.

28 (a) The property shall be the homestead of the taxpayer prior to  
29 claiming the deferral;

30 (b) the taxpayer claiming the deferral shall own or jointly own with  
31 another person residing in the homestead the fee simple estate except that  
32 nonresidence of the joint owner in the homestead because of ill health of  
33 the joint owner shall not prevent the taxpayer from meeting the  
34 requirement of this subsection;

35 (c) the property for which the deferral is claimed shall not be income  
36 producing;

37 (d) all real property taxes for years prior to the year for which the  
38 election is made have been paid; and

39 (e) the property is insured by a property and casualty insurance  
40 policy.

41 Sec. 3. Interest shall accrue on deferred taxes at a rate as provided  
42 pursuant to K.S.A. 79-2968, and amendments thereto.

43 Sec. 4. The lien for deferred taxes under subsection (b)(3) of section

1 1, and amendments thereto, and accrued interest under section 3, and  
2 amendments thereto, shall be filed in the county of residence of the  
3 taxpayer who is participating in the property tax averaging payment plan.  
4 A separate lien shall be filed for each year in which there is a deferral  
5 under subsection (b)(3) of section 1, and amendments thereto. Such lien  
6 shall attach on the date of recordation of the certificate for deferral, shall  
7 be junior to any mortgage or deed of trust recorded prior to the date of  
8 recording of such certificate and shall have priority over all liens attaching  
9 subsequent to the date of recording such certificate. There shall be no  
10 filing fee for any lien filed as required pursuant to the provisions of this  
11 act.

12 Sec. 5. (a) All deferred real property taxes, including accrued interest,  
13 become payable subject to sections 6 and 7, and amendments thereto,  
14 when:

15 (1) The taxpayer who entered into the property tax averaging  
16 payment plan and received the tax deferral dies;

17 (2) the property on which the taxes were deferred is sold or becomes  
18 subject to a contract of sale or title to the property is transferred to a person  
19 other than the taxpayer who entered into the property tax averaging  
20 payment plan;

21 (3) the property is no longer the homestead of the taxpayer who  
22 entered into the property tax averaging payment plan and who received the  
23 deferral, except in the case of a taxpayer required to be absent from such  
24 tax-deferred property by reasons of ill-health; or

25 (4) the tax-deferred property no longer meets the requirements of  
26 subsection (c) of section 2, and amendments thereto.

27 (b) When the county appraiser or county treasurer has reason to  
28 believe any of the circumstances enumerated in this section have occurred,  
29 the county appraiser or the county treasurer shall promptly notify the  
30 department of revenue.

31 Sec. 6. (a) Whenever any of the circumstances listed in section 5, and  
32 amendments thereto, occurs:

33 (1) No further participation in the property tax averaging payment  
34 plan may be allowed on the property until all unpaid taxes thereon,  
35 including previously deferred taxes and accrued interest, have been paid;  
36 and

37 (2) all deferred taxes and accrued interest shall be due and payable 90  
38 days after the circumstance occurs, except as provided in subsection (b)  
39 and in section 7, and amendments thereto.

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

43 Sec. 7. (a) Notwithstanding any provisions of section 5, and

1 amendments thereto, when either of the circumstances listed in paragraphs  
2 (1) or (3) of subsection (a) of section 5, and amendments thereto, occurs,  
3 the spouse of the taxpayer may elect to continue the property in its tax  
4 deferred status if the property is the homestead of the spouse of the  
5 taxpayer and meets the requirements of subsection (b) of section 2, and  
6 amendments thereto.

7 (b) The election granted under subsection (a) shall be filed in the  
8 same manner as an application to participate in the payment plan filed  
9 under section 1, and amendments thereto, not later than 90 days from the  
10 date the circumstance occurs. Thereafter, the property shall continue to be  
11 treated as participating in the payment plan and the county treasurer and  
12 state treasurer shall withdraw any action taken under section 8, and  
13 amendments thereto. When the property has been continued in its tax-  
14 deferred status by the spouse of the taxpayer, the spouse may continue the  
15 property in its tax-deferred status in subsequent years by filing a claim, as  
16 provided in this act, and amendments thereto, annually if the property  
17 continues to be eligible for tax-deferred status.

18 Sec. 8. This act shall take effect and be in force from and after its  
19 publication in the statute book.