

HOUSE BILL No. 2377

By Committee on Taxation

2-19

1 AN ACT concerning property taxation; providing for a property tax
2 averaging payment plan and a property tax installment payment plan;
3 amending K.S.A. 2014 Supp. 79-2004 and repealing the existing
4 section.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) On and after January 1, 2017, and subject to the
8 provisions of this act, a county may allow a person to enter into a property
9 tax averaging payment plan. To exercise such person's option, the taxpayer
10 shall file an application for such a payment plan with the county treasurer
11 of the county in which the subject property is located on or before June 15.
12 Once approved by the county treasurer, the property shall continue to
13 participate in the plan until such time as any of the circumstances in
14 section 4, and amendments thereto, occurs. A taxpayer who elects to no
15 longer participate in the property tax averaging payment plan shall be
16 prohibited from re-entering into the plan on the same property. The county
17 treasurer shall notify any lienholder of record on a property on which a
18 property tax averaging payment plan has been approved on or before July
19 1 of the first year in which such person participates in the plan.

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

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

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

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

30 (c) Property taxes under the property tax averaging payment plan
31 shall be calculated by averaging the taxes levied on the subject property in
32 that year and the next four preceding years without taking into account any
33 special assessments levied against the property. Such amount shall then be
34 added to any special assessments levied against the property in the current
35 year.

36 (d) A person who elects to participate in the property tax averaging

1 payment plan and subsequently finds that such averaging will result in a
2 higher real property tax payment for the year shall pay the amount
3 calculated in subsection (c). Upon receipt of such excess payment, the
4 county shall first apply any excess to remove any liens placed on the
5 property for underpayment of taxes in prior years due to participation in
6 the plan. Any remaining excess shall be remitted to the property tax
7 averaging stabilization fund.

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

12 (f) Interest shall accrue on deferred taxes at a rate as provided
13 pursuant to K.S.A. 79-2968, and amendments thereto.

14 (g) Taxes calculated pursuant to the provisions of this section shall be
15 due as provided in K.S.A. 79-2004, and amendments thereto.

16 (h) The board of county commissioners of any county may, by
17 resolution, elect to participate in the property tax averaging payment plan
18 pursuant to the provisions of this section and sections 2 through 6, and
19 amendments thereto.

20 New Sec. 2. In order to qualify for the property tax averaging
21 payment plan under this act, the property shall meet all of the following
22 requirements at the time the application is filed and so long thereafter as
23 payment is deferred:

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

26 (b) the property shall have been classified as residential property in
27 each of the four preceding years;

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

33 (d) the property for which the deferral is claimed shall not be income
34 producing;

35 (e) all real property taxes for years prior to the year for which the
36 election is made have been paid; and

37 (f) the property is insured by a property and casualty insurance policy.

38 New Sec. 3. The lien for deferred taxes under section 1(b)(3), and
39 amendments thereto, and accrued interest under section 1(f), and
40 amendments thereto, shall be filed in the county of residence of the
41 taxpayer who is participating in the property tax averaging payment plan.
42 A separate lien shall be filed for each year in which there is a deferral
43 under section 1(b)(3), and amendments thereto. Such lien shall attach on

1 the date of recordation of the certificate for deferral, shall be junior to any
2 mortgage or deed of trust recorded prior to the date of recording of such
3 certificate and shall have priority over all liens attaching subsequent to the
4 date of recording such certificate. There shall be no filing fee for any lien
5 filed as required pursuant to the provisions of this act.

6 New Sec. 4. (a) All deferred real property taxes, including accrued
7 interest, become payable subject to sections 5 and 6, and amendments
8 thereto, when:

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

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

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

19 (4) the tax-deferred property no longer meets the requirements of
20 section 2(c), and amendments thereto; or

21 (5) the taxpayer elects to no longer participate in the property tax
22 averaging payment plan.

23 (b) When the county appraiser or county treasurer has reason to
24 believe any of the circumstances enumerated in this section have occurred,
25 the county appraiser or the county treasurer shall promptly notify the
26 department of revenue.

27 New Sec. 5. (a) Whenever any of the circumstances listed in section
28 4, and amendments thereto, occurs:

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

33 (2) all deferred taxes and accrued interest shall be due and payable 90
34 days after the circumstance occurs, except as provided in subsection (b)
35 and in section 6, and amendments thereto.

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

39 New Sec. 6. (a) Notwithstanding any provisions of section 4, and
40 amendments thereto, when either of the circumstances listed in section
41 4(a)(1) or (a)(3), and amendments thereto, occurs, the spouse of the
42 taxpayer may continue the property in its tax deferred status if the property
43 is the homestead of the spouse of the taxpayer and meets the requirements

1 of section 2, and amendments thereto.

2 (b) The election granted under subsection (a) shall be filed in the
3 same manner as an application to participate in the payment plan filed
4 under section 1, and amendments thereto, not later than 90 days from the
5 date the circumstance occurs. Thereafter, the property shall continue to be
6 treated as participating in the payment plan and the county treasurer and
7 state treasurer shall withdraw any action taken under section 6, and
8 amendments thereto. When the property has been continued in its tax-
9 deferred status by the spouse of the taxpayer, the spouse may continue the
10 property in its tax-deferred status in subsequent years by filing an
11 application, as provided in this act, annually if the property continues to be
12 eligible for tax-deferred status.

13 New Sec. 7. (a) On and after January 1, 2016, a county may allow a
14 taxpayer to enter into a property tax installment payment plan in
15 accordance with the provisions of this section. Such installment payment
16 plan shall be applicable only to real property taxes levied against the
17 homestead of the taxpayer. To enter into an installment payment plan, the
18 taxpayer shall file an application with the county treasurer of the county in
19 which the subject property is located on or before May 1.

20 (b) The county treasurer shall calculate the payments due on an
21 installment payment plan under subsection (a) by substituting last year's
22 property taxes due on the subject property, including any special
23 assessments, and dividing by 12.

24 (c) Payments due under an installment payment plan shall be due to
25 the county treasurer on the first of each month beginning with the June 1
26 after the taxpayer has been approved for participation in the plan.
27 Regardless of the payments calculated pursuant to subsection (b), all taxes
28 on the property shall be paid by the taxpayer on or before May 10 next
29 ensuing.

30 (d) Whenever any date prescribed in subsection (c) for the payment
31 of real property taxes occurs on a Saturday or Sunday, such date for
32 payment shall be extended until the next following regular business day of
33 the office of the county treasurer.

34 (e) Payments received by a county treasurer prior to the fiscal year for
35 which such tax has been levied shall be placed by the county treasurer into
36 escrow until the first day of such fiscal year.

37 (f) The board of county commissioners of any county may, by
38 resolution, elect to participate in the property tax installment payment plan
39 pursuant to the provisions of this section.

40 Sec. 8. K.S.A. 2014 Supp. 79-2004 is hereby amended to read as
41 follows: 79-2004. (a) Except as provided by K.S.A. 79-4521, *and section*
42 *7*, and amendments thereto, any person charged with real property taxes on
43 the tax books in the hands of the county treasurer may pay, at such person's

1 option, the full amount thereof on or before December 20 of each year, or
2 $\frac{1}{2}$ thereof on or before December 20 and the remaining $\frac{1}{2}$ on or before
3 May 10 next ensuing. If the full amount of the real property taxes listed
4 upon any tax statement is \$10 or less the entire amount of such tax shall be
5 due and payable on or before December 20.

6 In case the first half of the real property taxes remains unpaid after
7 December 20, the first half of the tax shall draw interest at the rate
8 prescribed by K.S.A. 79-2968, and amendments thereto, per annum and
9 may be paid at any time prior to May 10 following by paying $\frac{1}{2}$ of the tax
10 together with interest at such rate from December 20 to date of payment.
11 Subject to the provisions of subsection (d), all real property taxes of the
12 preceding year and accrued interest thereon which remain due and unpaid
13 on May 11 shall accrue interest at the rate prescribed by K.S.A. 79-2968,
14 and amendments thereto, per annum from May 10 until paid, or until the
15 real property is sold for taxes by foreclosure as provided by law. Except as
16 provided by subsection (c), all interest herein provided shall be credited to
17 the county general fund, and whenever any such interest is paid the county
18 treasurer shall enter the amount of interest so paid on the tax rolls in the
19 proper column and account for such sum.

20 (b) Whenever any date prescribed in subsection (a) for the payment
21 of real property taxes occurs on a Saturday or Sunday, such date for
22 payment shall be extended until the next-following regular business day of
23 the office of the county treasurer.

24 (c) The board of county commissioners may enter into an agreement
25 with the governing body of any city located in the county for the
26 distribution of part or all of the interest paid on special assessments levied
27 by the city which remain unpaid.

28 (d) All real property taxes of any year past due and unpaid on the
29 effective date of this section and interest accrued thereon pursuant to this
30 section prior to its amendment by this act shall draw interest at the rate
31 prescribed by K.S.A. 79-2968, and amendments thereto, per annum from
32 the effective date of this section until paid or until the real property is sold
33 for taxes by foreclosure as provided by law.

34 Sec. 9. K.S.A. 2014 Supp. 79-2004 is hereby repealed.

35 Sec. 10. This act shall take effect and be in force from and after its
36 publication in the statute book.