



Sub. H.B. 293*

126th General Assembly

(As Reported by S. Ways and Means and Economic Development)

Reps. Kilbane, Miller, Trakas, J. McGregor, Wolpert, C. Evans, Reidelbach, Gilb, Faber, Cassell, Kearns, Hartnett, Carano, Boccieri, Healy, Buehrer, Aslanides, Barrett, Beatty, Blessing, Book, Brinkman, Brown, Bubp, Calvert, Chandler, Coley, Collier, Combs, DeBose, DeGeeter, DeWine, Distel, Dolan, Domenick, D. Evans, Fessler, Garrison, Gibbs, Hagan, Harwood, Hughes, Key, Koziura, Latta, Law, Martin, Mason, Oelslager, Otterman, T. Patton, Perry, Peterson, Raussen, Reed, Sayre, Schaffer, Schlichter, Schneider, Seitz, Setzer, Skindell, S. Smith, D. Stewart, J. Stewart, Strahorn, Taylor, Ujvagi, Wagoner, Webster, Williams, Woodard, Yates, Yuko

BILL SUMMARY

- Permits boards of county commissioners to establish property tax payment linked deposit programs for making low-interest loans to low to moderate income senior citizens or permanently and totally disabled persons, or both groups, to help them pay their real property taxes on their homesteads, and declares that such programs fulfill the public purpose of the state to assist such citizens.
- Establishes requirements and limitations for the programs, including eligibility standards, application procedures, approval standards, agreements with lending institutions, lending institution duties, and annual reporting of program operations to the appropriate board of county commissioners.
- Establishes lien certificates for the loans, provides for their recording as mortgages on the land, and declares their priority as superior to all other liens and encumbrances.

** This analysis was prepared before the report of the Senate Ways and Means and Economic Development Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- Shifts which party pays sales or use taxes when employment service personnel are supplied by the purchaser of the employment service to a third party as an employment service.

CONTENT AND OPERATION

Property tax payment linked deposit programs--purpose

(R.C. 135.805(A))

The bill states that the General Assembly finds that many low to moderate income senior citizens and permanently and totally disabled citizens face financial hardship and find it difficult to timely pay property taxes on their homesteads. The bill further states that the General Assembly finds that this difficulty can lead to delinquencies, penalties, declines in tax receipts, foreclosures, a loss of stable and affordable housing, a loss of neighborhoods and communities, and a decline in property values. The bill "accordingly" declares that it is the public policy of Ohio through property tax payment linked deposit programs established by counties to provide a source of low-cost funds for lending purposes to assist these citizens in timely paying property taxes on their homesteads.

The program described in the bill and this analysis generally has the same target populations as the homestead exemption program under continuing law, which provides real property tax relief to persons who are 65 years of age or older, or permanently and totally disabled. As a result, the bill uses the defined terms and provides for the same income determinations as under the homestead exemption law.¹

Creation of property tax payment linked deposit programs by counties

Established by resolution

(R.C. 135.353(A)(2), 135.804, and 135.805(B))

The bill provides that a board of county commissioners, by resolution, may establish a property tax payment linked deposit program for the benefit of persons age 65 or older, or persons who are permanently and totally disabled, or both

¹ Those terms are: "homestead," "housing cooperative," "old age and survivor benefits received pursuant to the 'Social Security Act,'" "tier I railroad retirement benefits received pursuant to the 'Railroad Retirement Act,'" "permanently and totally disabled," "sixty-five years of age or older," and "total income." Revised Code § 323.151, not in the bill.

groups of persons. The program authorizes the investing authority of the county (usually the county treasurer) to place certificates of deposit at up to 3% below market rates with an eligible lending institution, provided that the eligible lending institution agrees to lend the value of the deposit to eligible borrowers at up to 3% below the present borrowing rate applicable to each eligible borrower. Under the bill, an "eligible borrower" is the owner of a homestead with no more than two years' worth of certified delinquent taxes charged to it, who makes the lesser of \$50,000 a year or the income limit set by resolution of the board, and who meets all other eligibility requirements the board sets (discussed below). An "eligible lending institution" is a financial institution that is eligible to make mortgage loans (including reverse mortgages), that has an office in the county, is an eligible public depository under the Ohio Uniform Depository Act for receipt of county public moneys, and has entered into an agreement with the county investing authority to participate in the program.²

The investing authority may invest linked deposits under the program for a term not to exceed 15 years. The investment may be renewed for up to two additional terms of not more than 15 years each.

Resolution and program requirements

(R.C. 135.805(B))

The resolution establishing the program must include requirements, parameters, limitations, and other provisions that are consistent with the bill and necessary to establish and carry out the program, including all of the following:

(1) Eligibility requirements for borrowers who may receive reduced rate loans under the program, including both a total income limit for a borrower to be eligible for such a loan and an indebtedness limit that a borrower may not exceed to be eligible for the loan. Under the indebtedness limit, the sum of all recorded liens on the homestead plus the amount of the reduced rate loan cannot exceed 80% of the homestead's true value as most recently determined by the county auditor.

² A "reverse mortgage" is generally where the lender pays the homeowner (borrower) monthly payments, establishes a line of credit that the homeowner can draw on when desired, or provides for monthly payments to the homeowner and a line of credit. Reverse mortgages are designed to assist people, especially senior citizens, who have little cash but a lot of equity in their homes.

"Public moneys" are all moneys in the county treasury or moneys coming lawfully into the treasurer's possession or custody.

(2) Application procedures for eligible borrowers and eligible lending institutions wishing to participate in the program.

(3) Review procedures for applications and criteria for acceptance or rejection of applications for reduced rate loans under the program.

(4) Necessary agreements between the eligible lending institution and the investing authority of the county to carry out the purposes of the program, including procedures for the payment directly to the county treasurer by the eligible lending institution of the property taxes due on the homestead and delivery by the county treasurer to the eligible lending institution of a lien certificate that is required by the bill (described below).

(5) Annual reports regarding the operation of the program to be made by the investing authority to the board of county commissioners.

Appropriation of funds to pay closing costs

(R.C. 135.805(C))

The bill provides that a board of county commissioners may appropriate funds from the county general fund or any other lawfully available county funds for the purpose of defraying some or all of the closing costs and expenses of reduced rate loans made by eligible lending institutions to eligible borrowers pursuant to the program.

Liability on the loans

(R.C. 135.805(D))

The bill provides that the county, its investing authority, and the board of county commissioners are not liable to an eligible lending institution in any manner for the payment of the principal or interest on a reduced rate loan made under the program. Any delay in payment or default on the part of a borrower does not in any manner affect a deposit agreement between an eligible lending institution and an investing authority or a board of county commissioners.

Lien certificates

(R.C. 135.804(A) and 135.807)

Lien delivery. A property tax payment linked deposit program established under the bill must provide for the delivery of a lien certificate to an eligible lending institution making payment to the county treasurer, pursuant to a loan

agreement between the institution and an eligible borrower, of some or all of the taxes then due on the homestead of that eligible borrower.³

Effect of lien delivery. The delivery of the lien certificate vests in the eligible lending institution the first lien held previously by the state and its taxing districts for the amount of taxes paid by the eligible lending institution, together with any unpaid interest thereon from the date of delivery at the interest rate specified in the loan agreement between the eligible lending institution and the eligible borrower.

Priority of lien certificates. The delivered lien certificate is generally superior to all other liens and encumbrances on the homestead described in the certificate, and the lien continues in full force and effect until the amount of taxes paid by the eligible lending institution, together with any unpaid interest thereon, has been repaid to the institution. However, with respect to the priority among first liens of the state and its taxing districts, the priority is determined by the date that the first liens attached, with first priority to the earliest attached lien and each immediately subsequent priority based upon the next earliest attached lien. The delivered lien is superior to any subsequent tax liens.

Recording lien certificates. An eligible lending institution may record the lien certificate or memorandum of it as a mortgage on the land in the county recorder's office of the county in which the homestead is situated. The county recorder must record the certificate in the record of mortgages and must index the certificate in the general alphabetic, direct and reverse, indexes of all the names of both parties to all recorded instruments kept by the recorder. When a loan is repaid in full, the eligible financial institution must promptly record the full payment, and cancel or otherwise release the lien. The county recorder must also record a cancellation of the lien. On repayment of the loan in full, the lien certificate is null and void.

Lien forms. The bill requires the Tax Commissioner, in order to ensure uniformity among all counties, to prescribe the form for a lien certificate delivered to an eligible lending institution. The form must include the identity of the homestead, the eligible borrower, the eligible lending institution, the amount of

³ "Taxes" under the bill means, in relevant part, the total amount of all charges against any entry appearing on a tax list and duplicate that was prepared and certified by the county auditor, including taxes levied against real estate; recoupment charges applied to land converted from exclusive agricultural use; assessments; penalties and interest for failure to pay real estate taxes and installments on time; charges added due to clerical errors on the tax list and duplicate; and all of such charges that remain unpaid from any previous tax year.

taxes paid by that eligible lending institution, and the tax year for which the taxes were paid. The Commissioner must distribute the forms to the county treasurers of all counties in which a program is established under the bill.

A county treasurer must use the Commissioner's form, except that, prior to the time that the Commissioner's forms are prescribed and distributed, the treasurer must prepare the form. If the county treasurer prepares the form, it must contain the information described above for the Commissioner's form, and include the following sentence: "This lien certificate is delivered pursuant to section 135.807 of the Revised Code and vests in the eligible lending institution the first lien held previously by the state and its taxing districts for the amount of taxes paid by the eligible lending institution, together with any and all unpaid interest thereon."

Eligible lending institutions' duties

(R.C. 135.806)

The bill provides that, upon placement of a certificate of deposit with an eligible lending institution pursuant to an agreement with the county, the eligible lending institution must lend funds pursuant to the agreement to eligible borrowers and comply fully with the bill's requirements.

Taxation of employment services under the sales and use taxes

(R.C. 5739.01(B)(3)(k) and (JJ))

Continuing law levies sales and use taxes on all transactions by which employment service is or is to be provided. Current law defines "employment service" as providing or supplying personnel, on a temporary or long-term basis, to perform work or labor under the supervision or control of another, when the personnel so supplied receive their wages, salary, or other compensation from the provider of the service. "Employment service" excludes certain services, for example, medical and health care services.

The bill amends the definition of "employment service" to shift who pays the sales or use tax under circumstances where personnel provided or supplied to perform work or labor to the purchaser of an employment service are then provided or supplied by the purchaser to a third party as an employment service. The change made by the bill works as follows: If A provides personnel to B, who in turn provides that personnel to C, the transaction between B and C is taxed, rather than the transaction between A and B. Under current law, the transaction between A and B would be taxed.

HISTORY

ACTION	DATE
Introduced	06-07-05
Reported, H. Finance & Appropriations	05-18-06
Passed House (94-0)	05-24-06
Reported, S. Ways & Means & Economic Development	---

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