

AMENDED IN SENATE AUGUST 31, 2010
AMENDED IN SENATE AUGUST 19, 2010
AMENDED IN SENATE AUGUST 9, 2010
AMENDED IN SENATE JULY 15, 2010
AMENDED IN ASSEMBLY MAY 28, 2010
AMENDED IN ASSEMBLY APRIL 27, 2010
AMENDED IN ASSEMBLY MARCH 11, 2010
CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1718

Introduced by Assembly Member Blumenfield
(Coauthors: Assembly Members Huffman, Ma, Torres, and
Yamada)
(Coauthors: Senators Alquist and Correa)

February 2, 2010

An act to amend Section 53684 of the Government Code, and to add Part 10.6 (commencing with Section 20800) to Division 2 of the Revenue and Taxation Code, relating to taxation, ~~and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1718, as amended, Blumenfield. Taxation: property tax deferment. The Senior Citizens and Disabled Citizens Property Tax Postponement Law, until February 20, 2009, authorized a claimant, as defined, to file a claim with the Controller to postpone the payment of ad valorem property taxes, where household income, as defined, did not exceed

specified amounts. Existing law authorized the Controller, upon approval of the claim, to either make payment directly to specified entities, or to issue the claimant a certificate of eligibility that constituted a written promise of the state to pay the amount specified on the certificate, as provided. Existing law required these payments to be made out of a specified funds appropriated to the Controller, as specified, and also required repaid property tax postponement payments *to* be transferred, as specified, to the General Fund.

Existing law, on and after February 20, 2009, prohibits a person from filing a claim for postponement, and prohibits the Controller from accepting applications for postponement, under the Senior Citizens and Disabled Citizens Property Tax Postponement Law.

This bill would establish the County Deferred Property Tax Program for Senior Citizens and Disabled Citizens, authorize a county to elect to participate in the program by adopting a resolution indicating the county's intention to participate in and administer the program, and specify that the requirements of a county or county officials set forth in the bill are conditioned upon the county's passage of the above-described resolution. Under the program, a participating county would be authorized to defer a claimant's property taxes retroactively, ~~for the time period since the suspension of the Senior Citizens and Disabled Citizens Property Tax Postponement Law~~ *property taxes due on or before February 20, 2010*, and prospectively, as specified, ~~unless retroactive deferment would impair a vested right of a private party.~~

This bill would ~~authorize~~ *require* a claimant, as defined, ~~upon verifying a county's participation in the program, to apply, within a specified filing period, to the county to participate~~ *to use the application form of a county to initiate participation* in the program. The bill would ~~require~~ *authorize* the county treasurer or county tax collector to review the claimant's application for program participation, as specified, and, if the claimant is eligible, and if there are sufficient funds within the county's Property Tax Deferral Fund, which this bill would require a participating county to establish within its treasury, to (1) defer property taxes on the claimant's residential dwelling for that fiscal year, (2) issue a subvention payment to that county, in an amount equivalent to the amount of the deferred property taxes, from the county's Property Tax Deferral Fund, ~~and~~ (3) *direct the county auditor to* apportion that subvention payment in the same manner as if the property taxes had been paid, *and* (4) *provide a letter or other written notice to the claimant, noting the relevant fiscal year of participation, for use as*

written confirmation of participation. The bill would authorize the county treasurer of a participating county, if he or she makes a specified determination, upon the adoption of a specified resolution by that county's board of supervisors, to deposit specified funds in the county treasury for the purpose of investment of those funds in the county's Property Tax Deferral Fund.

This bill would require the amount of property taxes deferred, plus any interest accrued thereon, to be secured by a county property tax lien, as specified. The bill would also require the lien to be evidenced by a notice of lien, and various county officials to process and record the notice of lien, as specified. The bill would require a participating county to charge a claimant a specified adjusted rate of interest on the amount owed for the deferment of property taxes. The bill would require the amount secured by the lien to be increased to reflect the accrual of interest on the property taxes deferred, or decreased by the amount of any payment made to reduce the amount secured by the lien, as specified. The bill would provide procedures for the release of the lien if the obligation is paid in full or otherwise discharged, and would require all amounts owed by a claimant under the program to become due immediately under specified circumstances.

This bill would authorize a participating county to charge an application fee to the claimant to offset the actual costs of administering the program, and would require the fee proceeds to be deposited in an account within the county's Property Tax Deferral Fund, to be used exclusively for those ~~administration~~ *administrative* costs. ~~The bill would provide if specified other collection actions are unsuccessful, that costs to foreclose on a residential dwelling for which property taxes have been deferred under the program would be administrative costs. The bill would require the letter or other written confirmation of participation in the program provided by the county to be considered as evidence of program participation.~~

~~The bill would prohibit a lender or other person authorized to take sale on the real property for which property taxes are deferred due to the failure to pay property taxes from filing a notice of default based solely on the failure to pay property taxes if the borrower provides the lender or other person authorized to take sale evidence of the borrower's participation in the Senior Citizens and Disabled Citizens Property Tax Postponement Program during the 2008-09 fiscal year. The bill would require the Controller to provide written notice to individuals that~~

~~participated in the program during 2008, 2009, or the 2008–09 fiscal year for use as written confirmation of that participation.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: ~~yes-no~~. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Since 1977, the Senior Citizens and Disabled Citizens
4 Property Tax Postponement Law has helped eligible elderly and
5 disabled residents on fixed incomes remain in their homes by
6 deferring payment of property taxes until the house is sold or
7 ownership otherwise transferred.

8 (b) Suspension of the Senior Citizens and Disabled Citizens
9 Property Tax Postponement Law in February 2009 has exposed
10 participants to possible default on property taxes in December
11 2009 and thereafter, and has heightened fears of home foreclosures.

12 (c) While counties may not force the sale of a home to collect
13 on delinquent property taxes for five years, no similar delay applies
14 to lenders that would protect the elderly and disabled who would
15 have participated in the property tax deferral program established
16 pursuant to the Senior Citizens and Disabled Citizens Property
17 Tax Postponement Law had it not been suspended.

18 SEC. 2. Section 53684 of the Government Code is amended
19 to read:

20 53684. (a) Unless otherwise provided by law, if the treasurer
21 of any local agency, or other official responsible for the funds of
22 the local agency, determines that the local agency has excess funds
23 which are not required for immediate use, the treasurer or other
24 official may, upon the adoption of a resolution by the legislative
25 or governing body of the local agency authorizing the investment
26 of funds pursuant to this section and with the consent of the county
27 treasurer, deposit the excess funds in the county treasury for the
28 purpose of investment by the county treasurer pursuant to Section
29 53601 or 53635, or Section 20822 of the Revenue and Taxation
30 Code.

1 (b) The county treasurer shall, at least quarterly, apportion any
2 interest or other increment derived from the investment of funds
3 pursuant to this section in an amount proportionate to the average
4 daily balance of the amounts deposited by the local agency and to
5 the total average daily balance of deposits in the investment pool.
6 In apportioning and distributing that interest or increment, the
7 county treasurer may use the cash method, the accrual method, or
8 any other method in accordance with generally accepted accounting
9 principles.

10 Prior to distributing that interest or increment, the county
11 treasurer may deduct the actual costs incurred by the county in
12 administering this section in proportion to the average daily balance
13 of the amounts deposited by the local agency and to the total
14 average daily balance of deposits in the investment pool.

15 (c) The county treasurer shall disclose to each local agency that
16 invests funds pursuant to this section the method of accounting
17 used, whether cash, accrual, or other, and shall notify each local
18 agency of any proposed changes in the accounting method at least
19 30 days prior to the date on which the proposed changes take effect.

20 (d) The treasurer or other official responsible for the funds of
21 the local agency may withdraw the funds of the local agency
22 pursuant to the procedure specified in Section 27136.

23 (e) Any moneys deposited in the county treasury for investment
24 pursuant to this section are not subject to impoundment or seizure
25 by any county official or agency while the funds are so deposited.

26 (f) This section is not operative in any county until the board
27 of supervisors of the county, by majority vote, adopts a resolution
28 making this section operative in the county.

29 (g) It is the intent of the Legislature in enacting this section to
30 provide an alternative procedure to Section 51301 for local agencies
31 to deposit money in the county treasury for investment purposes.
32 Nothing in this section shall, therefore, be construed as a limitation
33 on the authority of a county and a city to contract for the county
34 treasurer to perform treasury functions for a city pursuant to Section
35 51301.

36 SEC. 3. Part 10.6 (commencing with Section 20800) is added
37 to Division 2 of the Revenue and Taxation Code, to read:

1 PART 10.6. COUNTY DEFERRED PROPERTY TAX
2 PROGRAM FOR SENIOR CITIZENS AND DISABLED
3 CITIZENS

4
5 CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS
6

7 20800. This part shall be known and may be cited as the County
8 Deferred Property Tax Program for Senior Citizens and Disabled
9 Citizens.

10 20801. Unless the context requires otherwise, the definitions
11 set forth in this chapter shall govern the construction of this part.

12 20802. (a) "Claimant" means an owner of a residential
13 dwelling, as defined in Section 20808, who applies to a
14 participating county for deferment of property taxes pursuant to
15 this chapter and meets all of the following requirements:

16 (1) Has a household income, as defined in subdivision (a) of
17 Section 20803, that does not exceed thirty-five thousand five
18 hundred dollars (\$35,500).

19 (2) Has (A) attained eligibility for full Social Security benefits
20 as of the last day of the filing period for that fiscal year, or (B) is
21 blind or disabled, as defined in Section 12050 of the Welfare and
22 Institutions Code, except in the case of retroactive deferment, as
23 provided for in Section 20810, the age eligibility shall be 62 years
24 old.

25 ~~(3) Has equity of at least 20 percent of the full assessed value~~
26 ~~of the residential dwelling, as determined for purposes of ad~~
27 ~~valorem property taxation, or at least 20 percent of the fair market~~
28 ~~value, as determined by the county assessor or tax collector,~~
29 ~~sufficient to protect the county's interest in any residential dwelling~~
30 ~~after deferment.~~

31 *(3) Has equity value of at least 20 percent. For purposes of this*
32 *subdivision, "equity value" means the amount by which the fair*
33 *market value of residential dwelling exceeds the total amount of*
34 *any liens or other obligations against the residential dwelling. A*
35 *participating county may require a claimant to provide an*
36 *appraisal by a licensed or certified appraiser in support of his or*
37 *her application. If an alternate appraisal method is used, a*
38 *claimant whose application is denied for insufficient equity, may*
39 *provide an appraisal by a licensed or certified appraiser in support*
40 *of his or her application for consideration by the county.*

1 (b) Only one claimant per residential dwelling may have
2 property taxes deferred under this chapter at any one time.

3 (c) A claimant shall apply to participate in the program in each
4 year that he or she seeks to defer property taxes under the program.

5 ~~(d) The claimant may be required to furnish evidence of his or
6 her ongoing eligibility in order to continue participation in the~~

7 *(d) The county treasurer, or county tax collector, may require*
8 *a claimant to furnish evidence of the claimant's ongoing eligibility*
9 *in order to continue participation in the program in a subsequent*
10 *year.*

11 (e) If the claimant fails or refuses to furnish any information
12 requested in writing by the county pursuant to this chapter, or files
13 a fraudulent claim for deferment under this chapter, ~~any county~~
14 ~~obligation~~ *the claimant's application* to defer property taxes under
15 this chapter shall be null and void, any record of a deferment
16 payment on the tax roll shall be canceled, the tax or assessment
17 shall be a lien as though no payment had been made, and the
18 amount of the lien shall be increased by any penalties or interest
19 resultant from property tax delinquency.

20 20803. (a) "Household income" means all income, as defined
21 in subdivision (b), received by any member of a household while
22 that member is or was a member of that household. ~~In the case of~~
23 ~~a nonresident claimant, "household income" shall include, but not~~
24 ~~be limited to, all income received by the claimant during the~~
25 ~~calendar year without regard to source.~~

26 (b) "Income" means adjusted gross income, as defined in Section
27 17072, plus all of the following cash items:

28 (1) Amounts contributed on behalf of the contributor to a
29 tax-sheltered retirement plan or deferred compensation plan.

30 (2) Annual winnings from the California Lottery in excess of
31 six hundred dollars (\$600) in the current calendar year.

32 (3) Exempt interest received from any source.

33 (4) Gifts and inheritances in excess of three hundred dollars
34 (\$300), other than transfers between members of the household.
35 Gifts and inheritances shall include noncash items.

36 (5) Life insurance proceeds to the extent that the proceeds
37 exceed the expenses incurred for the last illness and funeral of the
38 deceased spouse of the claimant. "Expenses incurred for the last
39 illness" shall include unreimbursed expenses paid or incurred
40 during the income calendar year and any expenses paid or incurred

1 thereafter up until the day the claim is filed. For purposes of this
2 paragraph, funeral expenses shall not exceed five thousand dollars
3 (\$5,000).

4 (6) Nontaxable amount of any pensions and annuities.

5 (7) Nontaxable gain from the sale of a residence, as defined in
6 Section 121 of the Internal Revenue Code.

7 (8) Nontaxable military compensation as defined in Section 112
8 of the Internal Revenue Code.

9 (9) Nontaxable scholarship and fellowship grants as defined in
10 Section 117 of the Internal Revenue Code.

11 (10) Public assistance and relief.

12 (11) Railroad retirement benefits.

13 (12) Sick leave payments.

14 (13) Social Security benefits (not including Medicare benefits).

15 (14) Temporary workers' compensation payments.

16 (15) Unemployment insurance payments.

17 (16) Veterans' benefits.

18 (17) If an alternative minimum tax is required to be paid
19 pursuant to Chapter 2.1 (commencing with Section 17062) of Part
20 10, the amount of the alternative minimum taxable income,
21 regardless of whether or not that amount is held in cash, in excess
22 of the regular taxable income otherwise applicable.

23 (c) Net business loss, net rental loss, net capital loss, or other
24 net losses, amounts deducted for depreciation, or other noncash
25 expenses shall not be deducted in calculating adjusted gross income
26 for purposes of this section.

27 (d) For purposes of this chapter, income shall be determined
28 for the calendar year that ends within the fiscal year for which
29 deferment is claimed pursuant to this chapter.

30 20804. (a) "Owner of a residential dwelling" includes all of
31 the following:

32 (1) An individual with an ownership interest of a vendee, who
33 is in possession of the residential dwelling under a land sale
34 contract, provided that the contract or memorandum thereof is
35 recorded, and only from the date of recordation of the contract or
36 memorandum thereof in the office of the county recorder of a
37 participating county in which the residential dwelling is located.

38 (2) An individual with an ownership interest of a holder of a
39 life estate in the residential dwelling, provided that the instrument
40 creating the life estate is recorded, and only from the date of

1 recordation of that instrument in the office of the county recorder
2 of a participating county in which the residential dwelling is
3 located.

4 (3) If the residential dwelling is located within a participating
5 county, an individual with a joint-tenant or tenant-in-common
6 ownership interest in the residential dwelling, or the interest of a
7 tenant where title is held in tenancy by the entirety or as community
8 property.

9 (4) An individual with an ownership interest in the residential
10 dwelling and the title to the residential dwelling, located within a
11 participating county, is held in trust.

12 (5) For purposes of this chapter, an individual who is the
13 registered owner of a mobilehome attached to a permanent
14 foundation and assessed as real property.

15 (b) An ownership interest described in subdivision (a) shall be
16 required to be evidenced by a duly recorded instrument in the
17 office of the county recorder of a participating county in which
18 the residential dwelling is located.

19 20805. “Participating county” means a county that makes an
20 election described in Section 20810.

21 20806. “Program” means the County Deferred Property Tax
22 Program for Senior Citizens and Disabled Citizens.

23 20807. “Property taxes” means ad valorem property taxes or
24 special assessments imposed upon a residential dwelling within
25 the year in which deferment is sought.

26 20808. (a) (1) “Residential dwelling” means a dwelling, and
27 the land surrounding that dwelling as is reasonably necessary for
28 the use of the dwelling as a home, occupied by the claimant as his
29 or her principal place of residence, and owned by any of the
30 following:

31 (A) The claimant.

32 (B) The claimant and the claimant’s spouse.

33 (C) The claimant and his or her parents, children (whether
34 natural or adopted), or grandchildren of either the claimant or the
35 claimant’s spouse.

36 (D) The claimant and the spouse of any parent, child (whether
37 natural or adopted), or grandchild of either the claimant or the
38 claimant’s spouse.

39 (E) The claimant and another individual who resides in this state
40 and is eligible for deferment under this chapter.

1 (2) “Residential dwelling” shall also include all of the following:

2 (A) A condominium that is assessed as real property for local
3 property tax purposes.

4 (B) A portion of a multidwelling or multipurpose building and
5 the portion of land upon which it is built.

6 (C) A mobilehome that is permanently attached to a permanent
7 foundation and assessed as real property for local property tax
8 purposes.

9 (b) “Residential dwelling” shall not include any of the following:

10 ~~(1) Any dwelling in which the owner or owners do not have an~~
11 ~~equity value of at least 20 percent of the full value of the dwelling,~~
12 ~~as determined for property tax purposes, or an equity value of at~~
13 ~~least 20 percent of the fair market value of the dwelling, as~~
14 ~~determined by the county assessor or tax collector. “Equity value,”~~
15 ~~as used in this subdivision, means the amount by which the fair~~
16 ~~market value of the dwelling exceeds the total amount of liens or~~
17 ~~other obligations against the property, as determined by the county~~
18 ~~assessor or tax collector pursuant to his or her review of the~~
19 ~~appropriate county records.~~

20 *(1) Any dwelling in which the claimant does not have an equity*
21 *value of 20 percent, as described in paragraph (3) of subdivision*
22 *(a) of Section 20802.*

23 (2) Any dwelling in which the claimant’s interest is a life estate
24 or is held pursuant to a contract of sale, unless the claimant obtains
25 the written consent of the holder of the reversionary interest subject
26 to the life estate, or the vendor under the contract of sale, for the
27 claimant to participate in the program with respect to the dwelling.

28 (3) Any dwelling for which the claimant does not receive a
29 secured tax bill.

30 (4) Any dwelling in which the claimant’s interest is held as a
31 possessory interest, except a life estate as described in paragraph
32 (2).

33 (5) Any houseboat or floating home.

34

35 CHAPTER 2. DEFERMENT

36

37 20810. A county may elect to participate in the County
38 Deferred Property Tax Program for Senior Citizens and Disabled
39 Citizens by adopting a resolution indicating the county’s intention
40 to participate in and to administer the program. All requirements

1 of a county or county officials set forth in this chapter are
2 conditioned upon the county's adoption of this resolution. Under
3 this program, a participating county may defer a claimant's
4 ~~property taxes retroactively, for the time period since the~~
5 ~~suspension of the Senior Citizens and Disabled Citizens Property~~
6 ~~Tax Postponement Law, and prospectively, as provided in this~~
7 ~~part, unless retroactive deferment would impair a vested right of~~
8 ~~a private party.~~ *property taxes retroactively, for property taxes*
9 *due on or before February 20, 2010, and prospectively, as provided*
10 *in this part.*

11 ~~20811. (a) Upon verifying a county's participation in the~~
12 ~~program, a claimant may submit his or her application to participate~~
13 ~~in the program to the county, on a form to be created by the county~~
14 ~~if it initiates its participation in the program pursuant to Section~~
15 ~~20810.~~

16 *20811. (a) A claimant shall use the application form of a*
17 *county to initiate participation in the program pursuant to Section*
18 *20810.*

19 (b) Upon a participating county's receipt of a claim for property
20 tax deferment under the program, submitted within the filing period
21 specified in Section 20812, the county treasurer or county tax
22 collector shall review the claimant's application for program
23 eligibility, consistent with the requirements specified in Section
24 20802.

25 (c) If the claimant is eligible to participate in the program, and
26 if there are sufficient funds within the county's Property Tax
27 Deferral Fund, established pursuant to Section 20822, to defer
28 property taxes on the claimant's residential dwelling for that fiscal
29 year, the county treasurer or county tax collector, ~~shall~~ *may* do all
30 of the following:

31 (1) Defer the property taxes due on the claimant's residential
32 dwelling and owing for that fiscal year.

33 (2) Issue a subvention payment, equivalent to the amount of the
34 deferred property taxes, from the county's Property Tax Deferral
35 Fund to the county to be processed in the same manner as all other
36 property tax payments.

37 (3) ~~Apportion~~ *Direct the county auditor to apportion* that
38 subvention payment in the same manner as the property taxes had
39 they been paid.

1 (4) Provide a letter or other written confirmation to the
2 claimant, noting the relevant fiscal year of participation, for use
3 as written confirmation of program participation.

4 (d) If the claimant’s property taxes are deferred under the
5 program, the participating county shall not charge the claimant
6 any penalties, or undertake any collections actions with respect to
7 taxes deferred under this chapter.

8 (e) (1) The amount of property taxes deferred, plus any interest
9 accrued thereon, shall be secured by a county property tax lien, of
10 the priority described in Section 2192.1, against the claimant’s
11 residential dwelling for which the property taxes are deferred.

12 (2) In the case of a residential dwelling that is part of a larger
13 parcel taxed as a unit, including, but not limited to, a duplex, farm,
14 or multidwelling or multipurpose building, the lien shall be against
15 the entire tax parcel.

16 (f) The lien shall be evidenced by a notice of lien for deferred
17 property taxes executed by the county, and shall secure all sums
18 deferred and owing under this chapter, including amounts deferred
19 subsequent to the initial deferment. The notice of lien shall include,
20 but not be limited to, all of the following:

21 (1) The names of all record owners of the real property for which
22 the county has deferred property taxes under the program.

23 (2) A description of the real property for which property taxes
24 have been deferred.

25 (g) The county recorder shall index the lien according to the
26 names of each record owner and the county.

27 20812. (a) The filing period for a claimant to apply to a
28 participating county for deferment under the program shall be from
29 October 1 to December 10 of each year.

30 (b) A participating county may require any information
31 necessary to process the claimant’s application for deferment under
32 the program, whether through the county’s application form or
33 forms or otherwise.

34 (c) Any form filed by a claimant under this chapter shall not be
35 under oath, but shall contain, or be verified by, a written declaration
36 that the information therein was provided under the penalty of
37 perjury.

38 (d) All forms supplied to the claimant shall include a statement
39 of the interest rate that will apply to the property taxes deferred
40 under the program.

1 (e) A county may grant a reasonable extension for filing a claim
2 if it determines that good cause for the extension exists. However,
3 no extension shall be granted beyond the termination of the fiscal
4 year for which deferment is requested.

5 20813. (a) Upon receipt of a notice of lien for deferred property
6 taxes from the county treasurer, the county assessor, or county tax
7 collector, shall immediately do all of the following:

8 (1) Enter on the notice of lien a description of the real property
9 for which the taxes have been deferred.

10 (2) Enter on the notice of lien the names of all record owners
11 of the real property, as disclosed by the county assessor's records.

12 (3) Enter on the assessment records applicable to the property,
13 the fact that the taxes on the property have been deferred.

14 (b) Upon entry of the information required by subdivision (a),
15 the county assessor shall immediately forward the notice of lien
16 to the county recorder, who shall record the notice of lien.

17 (c) When the record reveals a change in the ownership status
18 of the real property subsequent to the date of entry of the deferral
19 information thereon, the county assessor shall notify the county
20 treasurer or county tax collector, as appropriate, of the change in
21 the ownership status in the manner prescribed by the county
22 treasurer or county tax collector.

23 ~~(d) As of the recordation of the notice of lien pursuant to this~~
24 ~~section, the lien for deferred property taxes shall be deemed to~~
25 ~~impart constructive notice of the contents thereof to subsequent~~
26 ~~purchasers, mortgagees, lessees, and any other lienholders.~~

27 20814. (a) A participating county shall reduce the amount
28 secured by the lien provided for in subdivision (e) of Section 20811
29 by the amount of any payment received for that purpose. Payments
30 shall be applied to the oldest deferral amount in order of lien
31 recordation date until paid in full.

32 (b) A participating county shall increase the amount secured by
33 that lien to reflect the accrual of interest on the property taxes
34 deferred, or any subsequent deferral of property taxes made with
35 respect to that residential dwelling pursuant to a claim of that
36 claimant.

37 (c) A participating county shall annually adjust the lien as
38 described in this section.

39 20815. If at any time the amount of the obligation secured by
40 the lien for deferred property taxes is paid in full or is otherwise

1 discharged, the county treasurer or county tax collector shall do
2 all of the following:

3 (a) Execute and cause to be recorded by the county recorder a
4 release of the associated lien conclusively evidencing the
5 satisfaction of all amounts secured by the lien. The cost of
6 recording the release of the lien shall be added to, and become part
7 of the obligation secured by, the lien being released.

8 (b) Direct the county tax collector, or other appropriate county
9 official, to remove from the secured roll the information required
10 to be entered thereon by paragraph (1) of subdivision (a) of Section
11 2514 with respect to the real property described in the lien.

12 (c) Direct the county tax collector, or other appropriate county
13 official, to remove the information required to be entered into the
14 county assessment records by Section 2515 from the assessment
15 records applicable to the real property described in the lien.

16 20816. (a) If property taxes are deferred for a claimant and
17 that claimant subsequently dies, all amounts owed by that claimant
18 pursuant to this chapter shall become due as of the end of that
19 fiscal year, unless another eligible claimant for the same residential
20 dwelling successfully applies to the county for deferment pursuant
21 to this chapter for the next fiscal year.

22 (b) All amounts owed by the claimant pursuant to this chapter
23 shall become due immediately if any of the following occurs:

24 (1) The claimant ceases to own the residential dwelling by sale,
25 conveyance, or condemnation.

26 (2) The claimant ceases to reside permanently at the residential
27 dwelling.

28 (3) The claimant's equity in the residential dwelling falls below
29 the amount necessary to be eligible to participate in the program,
30 as provided by paragraph (3) of subdivision (a) of Section 20802
31 and subdivision (b) of Section 20808.

32 ~~(4) The claimant refinances existing loans on the residential
33 dwelling.~~

34 *(4) The claimant refinances an exiting mortgage or deed of trust
35 on the residential dwelling causing his or her equity value in the
36 residential dwelling to decline by 5 percent or more.*

37 (5) Deferment was granted erroneously because eligibility
38 requirements were not actually met.

39 20817. (a) The county treasurer or county tax collector shall
40 maintain a record of all residential dwellings against which a notice

1 of lien for deferred property taxes has been recorded pursuant to
 2 this chapter. With respect to each residential dwelling, the record
 3 shall include, but not be limited to, the name of the claimant, a
 4 description of the real property against which the lien is recorded,
 5 the identification number of the notice of lien or book and page
 6 number of the recording, and the amount of the lien.

7 (b) Information and records of the program not required to be
 8 disclosed shall be maintained in the same manner as described in
 9 Section 408.

10
 11
 12

CHAPTER 3. FINANCING

13 20820. A participating county may charge an application fee
 14 from a claimant upon that claimant's submission of an application
 15 form to participate in the program, consistent with Section 54985
 16 of the Government Code. The application fees derived from all
 17 claimants in a participating county shall be used to offset that
 18 ~~county's costs incurred in administering the program. The county~~
 19 ~~may include within the application fee any recording fee required~~
 20 ~~pursuant to Section 27361.3 of the Government Code for the~~
 21 ~~recording of the release or discharge of the property tax deferral~~
 22 ~~lien, and if the fee is so included, the amount of that recording fee~~
 23 ~~shall be transferred to the county recorder, along with the~~
 24 ~~documents pertaining to release or discharge of the lien, upon the~~
 25 ~~release or discharge of the lien. The proceeds of the fee shall be~~
 26 ~~county's costs incurred in administering the program. The proceeds~~
 27 ~~of the fee shall be deposited in an account within the Property Tax~~
 28 ~~Deferral Fund, established by Section 20822, to be used exclusively~~
 29 ~~to pay those administration costs.~~

30 20821. (a) A participating county shall charge claimants ~~an~~
 31 ~~adjusted rate of interest on the amount property taxes deferred~~
 32 ~~pursuant to this chapter. The adjusted rate of interest per annum~~
 33 ~~shall be 7 percent, or the interest on the amount of property taxes~~
 34 ~~deferred pursuant to this part. The effective annual interest rate~~
 35 ~~shall be 7 percent, or the effective annual yield earned in the prior~~
 36 ~~fiscal year by the Pooled Money Investment Account plus 2~~
 37 ~~percent, whichever is higher, rounded to the nearest full percent.~~

38 (b) The interest rate provided for by subdivision (a) shall be
 39 applied as of the first day of the month in which a deferment
 40 payment is made pursuant to this chapter and every day of the

1 month thereafter until the lien is discharged. In the event that any
2 payment is applied, in any month, to reduce the amount owed
3 under the lien, the interest rate shall be applied to the balance of
4 the amount owed beginning on the first day of the following month.

5 (c) In computing interest in accordance with this section,
6 fractions of a cent shall be disregarded.

7 ~~(d) The interest rate shall be applicable solely to the amount of~~
8 ~~property taxes deferred, and shall not be compounded.~~

9 20822. ~~(a)~~ Each participating county shall establish a Property
10 Tax Deferral Fund within its treasury. Expenditures from this fund
11 shall be for the sole purposes of making property tax deferral
12 subvention payments pursuant to subdivision (c) of Section 20811
13 and *offsetting the county's* administrative costs, as described in
14 Section 20820.

15 ~~(b) If deferred property taxes cannot be collected through~~
16 ~~collection actions taken pursuant to Section 20816, costs to~~
17 ~~foreclose on a residential dwelling for which property taxes have~~
18 ~~been deferred, but not repaid, under this chapter shall be~~
19 ~~administrative costs, payable from the account described in Section~~
20 ~~20820.~~

21 20823. (a) The deferment of property taxes pursuant to this
22 chapter shall not affect the obligation of a borrower to continue to
23 make payments to a lender with respect to an impound account,
24 trust, or other type of account described in Section 2954 of the
25 Civil Code which was established prior to the effective date of the
26 act that added this section.

27 (b) (1) No lender shall require a borrower to maintain an
28 impound, trust, or other similar type of account with regard to
29 property taxes once the borrower has deferred these taxes pursuant
30 to this chapter and ~~has first submitted~~ *submits* to the lender
31 evidence of tax deferral under this part, except in the following
32 circumstances:

33 (A) Federal law, regulation, rule, or program requires the
34 borrower to maintain an impound, trust, or other similar type of
35 account with regard to property taxes, notwithstanding Sections
36 7153.2 and 7153.8 of the Financial Code.

37 (B) The borrower is required to make payment to a lender using
38 the type of account described in Section 2954 of the Civil Code
39 for a loan that is made, guaranteed, or insured by a federal
40 government lending or insuring agency.

1 (C) The prohibition would impair the express obligations of a
2 loan agreement.

3 (2) If not previously used in payment or partial payment of
4 property taxes, any payment made by a borrower to an impound,
5 trust, or other similar type of account prior to the time of
6 submission of evidence of tax deferment pursuant to this part shall
7 be refunded to the borrower within 30 days thereafter.

8 (c) No lender or other person authorized to take sale on real
9 property shall file a notice of default based solely on a borrower's
10 failure to pay property taxes if the borrower provides evidence of
11 participation in the property tax deferment program established
12 pursuant to this part. A borrower who is a claimant shall provide
13 evidence of participation to each lender upon a participating
14 county's approval of the claimant's application to participate in
15 the program.

16 ~~(d) (1) A mortgagee, trustee, or other person authorized to take~~
17 ~~sale on real property due to the mortgagor's or trustor's failure to~~
18 ~~pay property taxes shall not file a notice of default for five years~~
19 ~~following the initial authorization to take sale if the mortgagor or~~
20 ~~trustor provides evidence of participation in the property tax~~
21 ~~deferral program established pursuant to this chapter.~~

22 (2) ~~Notwithstanding subdivision (b), no lender shall require a~~
23 ~~borrower to maintain an impound, trust, or other type of account~~
24 ~~with regard to taxes if the borrower provides evidence of~~
25 ~~participation in the property tax deferral program established~~
26 ~~pursuant to this chapter. A lender shall not file a notice of default~~
27 ~~based solely on a mortgagor's failure to pay property taxes, until~~
28 ~~at least five years have elapsed from the date on which the property~~
29 ~~taxes became delinquent, if the mortgagor or trustor provided the~~
30 ~~mortgagee, trustee, or other person authorized to take sale, evidence~~
31 ~~of his or her participation in the Senior Citizens and Disabled~~
32 ~~Citizens Property Tax Postponement Program during the 2008-09~~
33 ~~fiscal year.~~

34 (3) ~~Written confirmation from the Controller identifying the~~
35 ~~individual as a participant in the Senior Citizens and Disabled~~
36 ~~Citizens Property Tax Postponement Program during the 2008-09~~
37 ~~fiscal year shall be considered evidence of participation for~~
38 ~~purposes of this section. The Controller shall provide written notice~~
39 ~~to individuals that participated in the program during 2008, 2009,~~

1 ~~or the 2008-09 fiscal year for use as written confirmation of~~
2 ~~participation.~~

3 *(d) A letter or other written confirmation from the county*
4 *identifying an individual as a participant in the program, provided*
5 *pursuant to paragraph (4) of subdivision (c) of Section 20811,*
6 *shall be considered as evidence of participation for purposes of*
7 *this section.*

8 20824. If the ~~department~~ *deferral* claim is filed timely, then
9 any delinquent penalties and interest for that fiscal year shall be
10 canceled unless the failure to perfect the claim was due to willful
11 neglect on the part of the claimant or his or her representative. In
12 the event of such willful neglect, any property tax deferral
13 subvention payment may be used only if it is accompanied by
14 sufficient amounts to pay the delinquent interest and penalties.

15 20825. If a property tax deferral repayment is made to satisfy
16 an obligation secured by a lien for property tax deferral, and the
17 repayment exceeds the amount owed to the participating county
18 under the lien, the county shall refund the overpayment to the party
19 entitled thereto.

20 ~~SEC. 4. This act is an urgency statute necessary for the~~
21 ~~immediate preservation of the public peace, health, or safety within~~
22 ~~the meaning of Article IV of the Constitution and shall go into~~
23 ~~immediate effect. The facts constituting the necessity are:~~

24 ~~In order to provide property tax deferral to seniors and disabled~~
25 ~~citizens in urgent need of assistance, it is necessary that this act~~
26 ~~take immediate effect.~~