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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, ~~and to add Chapter 11 (commencing with Section 30500) to Division 3 of Title 3 of, the Government Code~~ *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 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, and prospectively, as specified, unless retroactive deferral would impair a vested right of a private party.*

This bill would authorize 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 in the program. The bill would require the county treasurer, ~~or another appropriate county official, 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's general fund, county,~~ *in an amount* equivalent to the amount of the deferred property taxes, from the county's Property Tax Deferral Fund, and (3) apportion that subvention payment in the same manner as if the property taxes had been paid. 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 ~~a~~ *an application* fee to the claimant to ~~cover~~ *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 costs. The bill would ~~specify~~ *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 ~~are~~ *would be* administrative costs.

The bill would prohibit a ~~mortgagee, trustee, 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 ~~mortgagor or trustor provided the mortgage, trustee, borrower~~ *provides the lender or other person authorized to take sale; evidence of the mortgagor’s or trustor’s 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: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
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 to*
19 *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.*

31 (b) The county treasurer shall, at least quarterly, apportion any
32 interest or other increment derived from the investment of funds
33 pursuant to this section in an amount proportionate to the average
34 daily balance of the amounts deposited by the local agency and to
35 the total average daily balance of deposits in the investment pool.
36 In apportioning and distributing that interest or increment, the
37 county treasurer may use the cash method, the accrual method, or

1 any other method in accordance with generally accepted accounting
2 principles.

3 Prior to distributing that interest or increment, the county
4 treasurer may deduct the actual costs incurred by the county in
5 administering this section in proportion to the average daily balance
6 of the amounts deposited by the local agency and to the total
7 average daily balance of deposits in the investment pool.

8 (c) The county treasurer shall disclose to each local agency that
9 invests funds pursuant to this section the method of accounting
10 used, whether cash, accrual, or other, and shall notify each local
11 agency of any proposed changes in the accounting method at least
12 30 days prior to the date on which the proposed changes take effect.

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

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

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

22 (g) It is the intent of the Legislature in enacting this section to
23 provide an alternative procedure to Section 51301 for local agencies
24 to deposit money in the county treasury for investment purposes.
25 Nothing in this section shall, therefore, be construed as a limitation
26 on the authority of a county and a city to contract for the county
27 treasurer to perform treasury functions for a city pursuant to Section
28 51301.

29 ~~SEC. 2. Chapter 11 (commencing with Section 30500) is added~~
30 ~~to Division 3 of Title 3 of the Government Code, to read:~~

31

32 ~~CHAPTER 11. COUNTY DEFERRED PROPERTY TAX PROGRAM~~
33 ~~FOR SENIOR CITIZENS AND DISABLED CITIZENS~~

34

35 ~~Article 1. General Provisions and Definitions~~

36

37 ~~30500. This chapter~~

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

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

3
4 CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

5
6 20800. This part shall be known and may be cited as the County
7 Deferred Property Tax Program for Senior Citizens and Disabled
8 Citizens.

9 ~~30501.~~

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

13 ~~30502.~~

14 20802. (a) “Claimant” means an owner of a residential
15 dwelling, as defined in Section ~~30508~~ 20808, who applies to a
16 participating county for deferment of property taxes pursuant to
17 this chapter and meets all of the following requirements:

18 (1) ~~Has an income, as defined in Section 30503 a household~~
19 ~~income, as defined in subdivision (a) of Section 20803,~~ that does
20 not exceed thirty-five thousand five hundred dollars (\$35,500).

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

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

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

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

37 (d) The claimant may be required to furnish evidence of his or
38 her ongoing eligibility in order to continue participation in the
39 program in a subsequent year.

1 (e) If the claimant fails or refuses to furnish any information
2 requested in writing by the county pursuant to this chapter, or files
3 a fraudulent claim for deferment under this chapter, any county
4 obligation to defer property taxes under this chapter shall be null
5 and void, *any record of a deferment payment on the tax roll shall*
6 *be canceled, the tax or assessment shall be a lien as though no*
7 *payment had been made, and the amount of the lien shall be*
8 *increased by any penalties or interest resultant from property tax*
9 *delinquency.*

10 ~~30503. (a) “Income” means adjusted gross income, as defined~~
11 ~~in Section 17072 of the Revenue and Taxation Code, plus all of~~

12 ~~20803. (a) “Household income” means all income, as defined~~
13 ~~in subdivision (b), received by any member of a household while~~
14 ~~that member is or was a member of that household. In the case of~~
15 ~~a nonresident claimant, “household income” shall include, but~~
16 ~~not be limited to, all income received by the claimant during the~~
17 ~~calendar year without regard to source.~~

18 ~~(b) “Income” means adjusted gross income, as defined in~~
19 ~~Section 17072, plus all of the following cash items:~~

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

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

24 (3) Exempt interest received from any source.

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

28 (5) Life insurance proceeds to the extent that the proceeds
29 exceed the expenses incurred for the last illness and funeral of the
30 deceased spouse of the claimant. “Expenses incurred for the last
31 illness” shall include unreimbursed expenses paid or incurred
32 during the income calendar year and any expenses paid or incurred
33 thereafter up until the day the claim is filed. For purposes of this
34 paragraph, funeral expenses shall not exceed five thousand dollars
35 (\$5,000).

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

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

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

- 1 (9) Nontaxable scholarship and fellowship grants as defined in
- 2 Section 117 of the Internal Revenue Code.
- 3 (10) Public assistance and relief.
- 4 (11) Railroad retirement benefits.
- 5 (12) Sick leave payments.
- 6 (13) Social Security benefits (not including Medicare benefits).
- 7 (14) Temporary workers' compensation payments.
- 8 (15) Unemployment insurance payments.
- 9 (16) Veterans' benefits.
- 10 (17) If an alternative minimum tax is required to be paid
- 11 pursuant to Chapter 2.1 (commencing with Section 17062) of Part
- 12 ~~10 of the Revenue and Taxation Code~~, the amount of the alternative
- 13 minimum taxable income, regardless of whether or not that amount
- 14 is held in cash, in excess of the regular taxable income otherwise
- 15 applicable.
- 16 ~~(b)~~
- 17 (c) Net business loss, net rental loss, net capital loss, or other
- 18 net losses, amounts deducted for depreciation, or other noncash
- 19 expenses shall not be deducted in calculating adjusted gross income
- 20 for purposes of this section.
- 21 ~~(e)~~
- 22 (d) For purposes of this chapter, income shall be determined
- 23 for the calendar year that ends within the fiscal year for which
- 24 deferment is claimed pursuant to this chapter.
- 25 ~~30504.~~
- 26 ~~20804.~~ (a) "Owner of a residential dwelling" includes all of
- 27 the following:
- 28 (1) An individual with an ownership interest of a vendee, who
- 29 is in possession of the residential dwelling under a land sale
- 30 contract, provided that the contract or memorandum thereof is
- 31 recorded, and only from the date of recordation of the contract or
- 32 memorandum thereof in the office of the county recorder of a
- 33 participating county in which the residential dwelling is located.
- 34 (2) An individual with an ownership interest of a holder of a
- 35 life estate in the residential dwelling, provided that the instrument
- 36 creating the life estate is recorded, and only from the date of
- 37 recordation of that instrument in the office of the county recorder
- 38 of a participating county in which the residential dwelling is
- 39 located.

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

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

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

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

16 ~~30505.~~

17 ~~20805.~~ “Participating county” means a county that makes an
18 election described in Section ~~30510~~ 20810.

19 ~~30506.~~

20 20806. “Program” means the County Deferred Property Tax
21 Program for Senior Citizens and Disabled Citizens.

22 ~~30507.~~

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 ~~30508.~~

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

32 (A) The claimant.

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

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

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

- 1 (E) The claimant and another individual who resides in this state
- 2 and is eligible for deferment under this chapter.
- 3 (2) “Residential dwelling” shall also include all of the following:
- 4 (A) A condominium that is assessed as real property for local
- 5 property tax purposes.
- 6 (B) A portion of a multidwelling or multipurpose building and
- 7 the portion of land upon which it is built.
- 8 (C) A mobilehome that is permanently attached to a permanent
- 9 foundation and assessed as real property for local property tax
- 10 purposes.
- 11 (b) “Residential dwelling” shall not include any of the following:
- 12 (1) Any dwelling in which the owner or owners do not have an
- 13 equity value of at least 20 percent of the full value of the dwelling,
- 14 as determined for property tax purposes, or an equity value of at
- 15 least 20 percent of the fair market value of the dwelling, as
- 16 determined by the county assessor or tax collector. “Equity value,”
- 17 as used in this subdivision, means the amount by which the fair
- 18 market value of the dwelling exceeds the total amount of liens or
- 19 other obligations against the property, as determined by the county
- 20 assessor or tax collector pursuant to his or her review of the
- 21 appropriate county records.
- 22 (2) Any dwelling in which the claimant’s interest is a life estate
- 23 or is held pursuant to a contract of sale, unless the claimant obtains
- 24 the written consent of the holder of the reversionary interest subject
- 25 to the life estate, or the vendor under the contract of sale, for the
- 26 claimant to participate in the program with respect to the dwelling.
- 27 (3) Any dwelling for which the claimant does not receive a
- 28 secured tax bill.
- 29 (4) Any dwelling in which the claimant’s interest is held as a
- 30 possessory interest, except a life estate as described in paragraph
- 31 (2).
- 32 (5) Any houseboat or floating home.

Article 2. Deferment

CHAPTER 2. DEFERMENT

33

34

35

36

37

38 ~~30510.~~

39 ~~20810.~~ A county may elect to participate in the County

40 Deferred Property Tax Program for Senior Citizens and Disabled

1 Citizens by adopting a resolution indicating the county’s intention
 2 to participate in and to administer the program. All requirements
 3 of a county or county officials set forth in this chapter are
 4 conditioned upon the county’s adoption of this resolution. *Under*
 5 *this program, a participating county may defer a claimant’s*
 6 *property taxes retroactively, for the time period since the*
 7 *suspension of the Senior Citizens and Disabled Citizens Property*
 8 *Tax Postponement Law, and prospectively, as provided in this*
 9 *part, unless retroactive deferment would impair a vested right of*
 10 *a private party.*

11 ~~30511.~~

12 20811. (a) Upon verifying a county’s participation in the
 13 program, a claimant may submit his or her application to participate
 14 in the program to the county, on a form to be created by the county
 15 if it initiates its participation in the program pursuant to Section
 16 ~~30510~~ 20810.

17 (b) Upon a participating county’s receipt of a claim for property
 18 tax deferment under the program, submitted within the filing period
 19 specified in Section ~~30512~~ 20812, the county treasurer, ~~or other~~
 20 ~~appropriate county official,~~ *or county tax collector* shall review
 21 the claimant’s application for program eligibility, consistent with
 22 the requirements specified in Section ~~30502~~ 20802.

23 (c) If the claimant is eligible to participate in the program, and
 24 if there are sufficient funds within the county’s Property Tax
 25 Deferral Fund, established pursuant to Section ~~30522~~ 20822, to
 26 defer property taxes on the claimant’s residential dwelling for that
 27 fiscal year, the county treasurer ~~or other appropriate county official~~
 28 *county tax collector,* shall do all of the following:

29 (1) Defer the property taxes due on the claimant’s residential
 30 dwelling and owing for that fiscal year.

31 (2) Issue a subvention payment ~~to the county’s general fund,~~
 32 equivalent to the amount of the deferred property taxes, from the
 33 county’s Property Tax Deferral Fund *to the county to be processed*
 34 *in the same manner as all other property tax payments.*

35 (3) Apportion that subvention payment in the same manner as
 36 the property taxes had they been paid.

37 (d) If the claimant’s property taxes are deferred under the
 38 program, the participating county shall not charge the claimant
 39 any penalties, or undertake any collections actions with respect to

1 ~~the underlying residential dwelling, unless authorized by this to~~
2 ~~taxes deferred under this chapter.~~

3 (e) (1) The amount of property taxes deferred, plus any interest
4 accrued thereon, shall be secured by a county property tax lien, of
5 the priority described in Section 2192.1 ~~of the Revenue and~~
6 ~~Taxation Code~~, against the claimant's residential dwelling for
7 which the property taxes are deferred.

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

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

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

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

21 ~~(g) The identification number of the lien shall be recorded by~~
22 ~~the county recorder, indexed in the county's Grantor Index to the~~
23 ~~names of all record owners of the real property, and indexed in~~
24 ~~the county's Grantee Index.~~

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

27 ~~30512.~~

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

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

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

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

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

8 ~~30513.~~

9 *20813.* (a) Upon receipt of a notice of lien for deferred property
10 taxes from the county treasurer, the county assessor, or ~~other~~
11 ~~appropriate county official~~ *county tax collector*, shall immediately
12 do all of the following:

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

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

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

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

22 (c) When the record reveals a change in the ownership status
23 of the real property subsequent to the date of entry of the deferral
24 information thereon, the county assessor shall notify the county
25 treasurer *or county tax collector, as appropriate*, of the change in
26 the ownership status in the manner prescribed by the county
27 treasurer *or county tax collector*.

28 (d) As of the recordation of the notice of lien pursuant to this
29 section, the lien for deferred property taxes shall be deemed to
30 impart constructive notice of the contents thereof to subsequent
31 purchasers, mortgagees, lessees, and any other lienholders.

32 ~~30514.~~

33 *20814.* (a) A participating county shall reduce the amount
34 secured by the lien provided for in subdivision (e) of Section ~~30514~~
35 *20811* by the amount of any payment received for that purpose.
36 *Payments shall be applied to the oldest deferral amount in order*
37 *of lien recordation date until paid in full.*

38 (b) A participating county shall increase the amount secured by
39 that lien to reflect the accrual of interest on the property taxes
40 deferred, or any subsequent deferral of property taxes made with

1 respect to that residential dwelling pursuant to a claim of that
2 claimant.

3 *(c) A participating county shall annually adjust the lien as*
4 *described in this section.*

5 ~~30515.~~

6 *20815.* If at any time the amount of the obligation secured by
7 the lien for deferred property taxes is paid in full or is otherwise
8 discharged, the county treasurer, ~~or other appropriate county~~
9 ~~official,~~ *or county tax collector* shall do all of the following:

10 (a) Execute and cause to be recorded by the county recorder a
11 release of the associated lien conclusively evidencing the
12 satisfaction of all amounts secured by the lien. The cost of
13 recording the release of the lien shall be added to, and become part
14 of the obligation secured by, the lien being released.

15 (b) Direct the county tax collector, or other appropriate county
16 official, to remove from the secured roll the information required
17 to be entered thereon by paragraph (1) of subdivision (a) of Section
18 ~~2514 of the Revenue and Taxation Code~~ with respect to the real
19 property described in the lien.

20 (c) Direct the county tax collector, or other appropriate county
21 official, to remove the information required to be entered into the
22 county assessment records by Section ~~2515 of the Revenue and~~
23 ~~Taxation Code~~ from the assessment records applicable to the real
24 property described in the lien.

25 ~~30516.~~

26 *20816.* (a) If property taxes are deferred for a claimant and
27 that claimant subsequently dies, all amounts owed by that claimant
28 pursuant to this chapter shall become due as of the end of that
29 fiscal year, unless another eligible claimant for the same residential
30 dwelling successfully applies to the county for deferment pursuant
31 to this chapter for the next fiscal year.

32 (b) All amounts owed by the claimant pursuant to this chapter
33 shall become due immediately if either of the following occurs:

34 ~~(1) A claimant whose property taxes have been deferred under~~
35 ~~this chapter fails to perform any acts that claimant is required to~~
36 ~~perform, and the performance of that act or those acts is secured,~~
37 ~~or will be in the event of nonperformance, by a lien that is senior~~
38 ~~to the lien provided for by this chapter.~~

1 ~~(2) Deferment was granted erroneously because eligibility~~
2 ~~requirements were not actually met. shall become due immediately~~
3 ~~if any of the following occurs:~~

4 (1) *The claimant ceases to own the residential dwelling by sale,*
5 *conveyance, or condemnation.*

6 (2) *The claimant ceases to reside permanently at the residential*
7 *dwelling.*

8 (3) *The claimant’s equity in the residential dwelling falls below*
9 *the amount necessary to be eligible to participate in the program,*
10 *as provided by paragraph (3) of subdivision (a) of Section 20802*
11 *and subdivision (b) of Section 20808.*

12 (4) *The claimant refinances existing loans on the residential*
13 *dwelling.*

14 (5) *Deferment was granted erroneously because eligibility*
15 *requirements were not actually met.*

16 ~~30517. (a) The county treasurer, or other appropriate county~~
17 ~~official,~~

18 20817. (a) *The county treasurer or county tax collector shall*
19 *maintain a record of all residential dwellings against which a notice*
20 *of lien for deferred property taxes has been recorded pursuant to*
21 *this chapter. With respect to each residential dwelling, the record*
22 *shall include, but not be limited to, the name of the claimant, a*
23 *description of the real property against which the lien is recorded,*
24 *the identification number of the notice of lien or book and page*
25 *number of the recording, and the amount of the lien.*

26 (b) *Information and records of the program not required to be*
27 *disclosed shall be maintained pursuant to Section 408 of the*
28 *Revenue and Taxation Code in the same manner as described in*
29 *Section 408.*

30
31 ~~Article 3. Financing~~

32
33 ~~CHAPTER 3. FINANCING~~

34
35 ~~30520.~~

36 20820. *A participating county may charge an application fee*
37 *from a claimant upon that claimant’s submission of an application*
38 *form to participate in the program. This fee shall cover the actual*
39 *costs of administering the program, consistent with Section 54895.*
40 *form to participate in the program, consistent with Section 54985*

1 of the Government Code. The application fees derived from all
 2 claimants in a participating county shall be used to offset that
 3 county's costs incurred in administering the program. The county
 4 may include within the application fee any recording fee required
 5 pursuant to Section 27361.3 of the Government Code for the
 6 recording of the release or discharge of the property tax deferral
 7 lien, and if the fee is so included, the amount of that recording fee
 8 shall be transferred to the county recorder, along with the
 9 documents pertaining to release or discharge of the lien, upon the
 10 release or discharge of the lien. The proceeds of the fee shall be
 11 deposited in an account within the Property Tax Deferral Fund,
 12 established by Section ~~30522~~ 20822, to be used exclusively to pay
 13 those administration costs.

14 ~~30521.~~

15 20821. (a) A participating county shall charge claimants an
 16 adjusted rate of interest on the amount ~~owed for the deferment of~~
 17 ~~property taxes~~ *property taxes deferred* pursuant to this chapter.
 18 The adjusted rate of interest per annum shall be 7 percent, or the
 19 effective annual yield earned in the prior fiscal year by the Pooled
 20 Money Investment Account plus 2 percent, whichever is higher,
 21 rounded to the nearest full percent.

22 (b) The interest *rate* provided for by subdivision (a) shall be
 23 applied as of the first day of the month in which a deferment
 24 payment is made pursuant to this chapter and every day of the
 25 month thereafter until the lien is discharged. In the event that any
 26 payment is applied, in any month, to reduce the amount owed
 27 under the lien, the interest *rate* shall be applied to the balance of
 28 the amount owed beginning on the first day of the following month.

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

31 (d) *The interest rate shall be applicable solely to the amount of*
 32 *property taxes deferred, and shall not be compounded.*

33 ~~30522.~~

34 20822. (a) Each participating county shall establish a Property
 35 Tax Deferral Fund within its treasury. ~~Consistent with the~~
 36 ~~provisions of Section 53684, and upon the passage of the resolution~~
 37 ~~authorizing the investment of funds described in subdivision (a)~~
 38 ~~of Section 53685, those funds may be deposited in the Property~~
 39 ~~Tax Deferral Fund for the sole purpose of making property tax~~

1 ~~deferment subvention payments pursuant to subdivision (c) of~~
2 ~~Section 30511.~~

3 ~~(b) Costs to foreclose on a residential dwelling for which~~
4 ~~Expenditures from this fund shall be for the sole purposes of~~
5 ~~making property tax deferment subvention payments pursuant to~~
6 ~~subdivision (c) of Section 20811 and administrative costs, as~~
7 ~~described in Section 20820.~~

8 ~~(b) If deferred property taxes cannot be collected through~~
9 ~~collection actions taken pursuant to Section 20816, costs to~~
10 ~~foreclose on a residential dwelling for which property taxes have~~
11 ~~been deferred, but not repaid, under this chapter shall be~~
12 ~~administrative costs, payable from the account described in Section~~
13 ~~30520 20820.~~

14 ~~30523.~~

15 20823. (a) The deferment of property taxes pursuant to this
16 chapter shall not affect the obligation of a borrower to continue to
17 make payments to a lender with respect to an impound account,
18 trust, or other type of account described in Section 2954 of the
19 Civil Code which was established prior to the effective date of the
20 act that added this section.

21 ~~(b) Except where required by federal law, regulation, rule, or~~
22 ~~program, and notwithstanding Sections 7153.2 and 7153.8 of the~~
23 ~~Financial Code, or in the case of a loan that is made, guaranteed,~~
24 ~~or insured by a federal government lending or insuring agency~~
25 ~~requiring the borrower to make payments to a lender with respect~~
26 ~~to an impound, trust, or other type of account described in Section~~
27 ~~2954 of the Civil Code, or where this subdivision would impair~~
28 ~~the obligations of a loan agreement executed prior to the effective~~
29 ~~date of the act that added this section, no lender shall require a~~
30 ~~borrower to maintain an impound, trust, or other type of account~~
31 ~~with regard to taxes for any similar period, if not previously used~~
32 ~~in payment or partial payment of those taxes, shall be refunded to~~
33 ~~the borrower within 30 days.~~

34 ~~(b) (1) No lender shall require a borrower to maintain an~~
35 ~~impound, trust, or other similar type of account with regard to~~
36 ~~property taxes once the borrower has deferred these taxes pursuant~~
37 ~~to this chapter and has first submitted to the lender evidence of~~
38 ~~tax deferment under this part, except in the following~~
39 ~~circumstances:~~

1 (A) Federal law, regulation, rule, or program requires the
 2 borrower to maintain an impound, trust, or other similar type of
 3 account with regard to property taxes, notwithstanding Sections
 4 7153.2 and 7153.8 of the Financial Code.

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

9 (C) The prohibition would impair the express obligations of a
 10 loan agreement.

11 (2) If not previously used in payment or partial payment of
 12 property taxes, any payment made by a borrower to an impound,
 13 trust, or other similar type of account prior to the time of
 14 submission of evidence of tax deferral pursuant to this part shall
 15 be refunded to the borrower within 30 days thereafter.

16 (c) No lender or other person authorized to take sale on real
 17 property shall file a notice of default based solely on a borrower's
 18 failure to pay property taxes if the borrower provides evidence of
 19 participation in the property tax deferral program established
 20 pursuant to this part. A borrower who is a claimant shall provide
 21 evidence of participation to each lender upon a participating
 22 county's approval of the claimant's application to participate in
 23 the program.

24 ~~(e)~~

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

31 (2) Notwithstanding subdivision (b), no lender shall require a
 32 borrower to maintain an impound, trust, or other type of account
 33 with regard to taxes if the borrower provides evidence of
 34 participation in the property tax deferral program established
 35 pursuant to this chapter. A lender shall not file a notice of default
 36 based solely on a mortgagor's failure to pay property taxes, until
 37 at least five years have elapsed from the date on which the property
 38 taxes became delinquent, if the mortgagor or trustor provided the
 39 mortgagee, trustee, or other person authorized to take sale, evidence
 40 of his or her participation in the Senior Citizens and Disabled

1 Citizens Property Tax Postponement Program during the 2008–09
2 fiscal year.

3 (3) Written confirmation from the Controller identifying the
4 individual as a participant in the Senior Citizens and Disabled
5 Citizens Property Tax Postponement Program during the 2008–09
6 fiscal year shall be considered evidence of participation for
7 purposes of this section. The Controller shall provide written notice
8 to individuals that participated in the program during 2008, 2009,
9 or the 2008–09 fiscal year for use as written confirmation of
10 participation.

11 ~~30524. If a deferment claim is filed timely but before the~~
12 ~~delinquency date of the first or second installment of property~~
13 ~~taxes~~

14 *20824. If the department claim is filed timely,* then any
15 delinquent penalties and interest for that fiscal year shall be
16 canceled unless the failure to perfect the claim was due to willful
17 neglect on the part of the claimant or his or her representative. In
18 the event of such willful neglect, any property tax deferment
19 subvention payment may be used only if it is accompanied by
20 sufficient amounts to pay the delinquent interest and penalties.

21 ~~30525.~~

22 *20825.* If a property tax deferment repayment is made to satisfy
23 an obligation secured by a lien for property tax deferment, and the
24 repayment exceeds the amount owed to the participating county
25 under the lien, the county shall refund the overpayment to the party
26 entitled thereto.

27 ~~SEC. 3. Section 53684 of the Government Code is amended~~
28 ~~to read:~~

29 ~~53684. (a) Unless otherwise provided by law, if the treasurer~~
30 ~~of any local agency, or other official responsible for the funds of~~
31 ~~the local agency, determines that the local agency has excess funds~~
32 ~~which are not required for immediate use, the treasurer or other~~
33 ~~official may, upon the adoption of a resolution by the legislative~~
34 ~~or governing body of the local agency authorizing the investment~~
35 ~~of funds pursuant to this section and with the consent of the county~~
36 ~~treasurer, deposit the excess funds in the county treasury for the~~
37 ~~purpose of investment by the county treasurer pursuant to Section~~
38 ~~30522, 53601, or 53635.~~

39 ~~(b) The county treasurer shall, at least quarterly, apportion any~~
40 ~~interest or other increment derived from the investment of funds~~

1 pursuant to this section in an amount proportionate to the average
 2 daily balance of the amounts deposited by the local agency and to
 3 the total average daily balance of deposits in the investment pool.
 4 In apportioning and distributing that interest or increment, the
 5 county treasurer may use the cash method, the accrual method, or
 6 any other method in accordance with generally accepted accounting
 7 principles.

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

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

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

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

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

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

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

1 In order to provide property tax deferment to seniors and disabled
2 citizens in urgent need of assistance, it is necessary that this act
3 take immediate effect.

O