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Bill Analysis
Legislative Service Commission

H.B. 293

126th General Assembly
(As Introduced)

Reps. Kilbane, Miller, Trakas, McGregor, Wolpert, C. Evans, Reidelbach, Gilb, Faber, Cassell, Kearns, Hartnett, Carano, Bocchieri, Healy, Buehrer

BILL SUMMARY

- Permits boards of county commissioners to establish property tax payment linked deposit programs that utilize low-interest loans to low to moderate income senior citizens and permanently and totally disabled citizens 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 and provides for their recordation and priority as against other liens and encumbrances.

CONTENT AND OPERATION

Property tax payment linked deposit programs--purpose

(R.C. 135.805)

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 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

further declares that it is the public policy of the state through property tax payment linked deposit programs 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 current 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 identical defined terms and provides for the same income determinations as under current law.¹

Creation of property tax payment linked deposit programs by counties

(R.C. 135.353, 135.804, 135.805, and 135.807)

The bill provides that a board of county commissioners, by resolution, may establish a property tax payment linked deposit program authorizing 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 delinquent taxes charged to it and who is 65 or older or permanently and totally disabled, makes the lesser of \$50,000 a year or the income limit set by resolution of the board, and meets all other eligibility requirements the board sets (discussed below). An "eligible lending institution" is a financial institution 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

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.

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" under the bill means all money in the county treasury or money coming lawfully into the treasurer's possession or custody.

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 no more than 15 years each.

Resolution and program requirements

The resolution establishing the program must include requirements and provisions necessary to carry out the program, including all of the following:

(1) Eligibility requirements for borrowers who may receive reduced rate loans under the program, including a total income limit for a borrower to be eligible for such a loan;

(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 current 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

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

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

Lien delivery. A 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 with an eligible borrower, of some or all of the current 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 current 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 current 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.

Recording lien certificates. An eligible lending institution may record the lien certificate or memorandum of it as a mortgage of 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. The county recorder must also record the subsequent cancellation of the lien.

Lien forms. The bill requires the Tax Commissioner to prescribe, in order to ensure uniformity among all counties, 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 current taxes paid by that eligible lending institution, and the tax year for which

³ "Current taxes" under the bill means all taxes charged against an entry on the general tax list and duplicate of real and public utility property that have not appeared on such list and duplicate for any prior tax year and any penalty imposed for failure to pay the first half installment when due.

the current 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 distributed, the form must be prepared by the county treasurer of the county, 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 current 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 property tax payment linked 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.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	06-07-05	p. 909

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