DEFERMENT OF SPECIAL ASSESSMENTS ON HOMESTEADS

Act 225 of 1976

AN ACT to defer the collection of special assessments on homestead properties; to provide for conditions of eligibility for such a deferment; to prescribe the powers and duties of the department of treasury, local assessing officers, and local collecting officers; to provide for the advancement of moneys by the state to indemnify special assessment districts for losses from deferment of collections; to provide for the advancement of money by the state to an owner for the repayment of loans used by the owner to pay special assessments; to provide for the collection of deferred special assessments and interest thereon, and the disposition of these collections; to make an appropriation; and to prescribe penalties.

History: 1976, Act 225, Imd. Eff. Aug. 4, 1976 ;-- Am. 1976, Act 437, Imd. Eff. Jan. 13, 1977 ;-- Am. 1980, Act 403, Imd. Eff. Jan. 8, 1981

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The People of the State of Michigan enact:

211.761 Definitions.

Sec. 1.

As used in this act:

(a) "Department" means the department of treasury.

(b) "Totally and permanently disabled" means a person as defined in 42 U.S.C. section 416.

(c) "Homestead" means a dwelling or a unit in a multiple-unit dwelling, owned and occupied as a home by the owner thereof, including all contiguous unoccupied real property owned by the person. Homestead includes a dwelling and an outbuilding used in connection with a dwelling, situated on the lands of another.

(d) "Owner" includes a person eligible for the exemption specified in this act, who is purchasing a homestead under a mortgage or land contract or who owns a dwelling situated on the leased lands of another or is a tenant-stockholder of a cooperative housing corporation.

(e) "Special assessment" means an assessment against real property calculated on a benefit or ad valorem basis for curb and gutter, sidewalk, sewer, water, or street paving; a drain; a connection fee or similar charge for a sewer or water system; or the land contract on a parcel of property acquired under the circumstances set forth in section 3(2). Special assessment does not include charges for current service.

History: 1976, Act 225, Imd. Eff. Aug. 4, 1976 ;-- Am. 1976, Act 437, Imd. Eff. Jan. 13, 1977 ;-- Am. 1978, Act 360, Imd. Eff. July 22, 1978

211.762 Deferment of special assessments on homesteads; partial payments; conveyance or transfer of or contract to sell homestead; termination of deferment; interest charge; notice.

Sec. 2.

(1) The payment of special assessments assessed before October 1, 2020 and due and payable on a homestead in any year in which the owner meets all of the terms and conditions of this act is deferred until 1 year after the owner's death, subject to further order by the probate court or until the homestead or any part of the homestead is conveyed or transferred to another or a contract to sell is entered into. The department shall not pay for any special assessments assessed on or after October 1, 2020. The death of a spouse does not terminate the deferment of special assessments for a homestead owned by a married couple under tenancy by the entireties as long as the surviving spouse does not remarry. Special assessments deferred under this act may be paid in full at any time. Alternatively, an owner may at any time make partial payments on the balance of special assessments owed under section 6, including any interest due on those special assessments, subject to all of the following:

(a) At the owner's discretion, the owner may make as many as 4 partial payments per calendar year in a form and manner prescribed by the department.

(b) A partial payment must be in an amount not less than the greater of the following:

(i) Five percent of the sum of the balance of special assessments owed under section 6 plus interest due on those special assessments.

(ii) $500.00.

(c) Interest continues to accrue on any unpaid balance of special assessments owed under section 6.

(d) Payment is due in full for the balance of special assessments owed under section 6 plus interest due on those special assessments if the owner conveys or transfers the homestead or any part of it, or enters a contract to sell the homestead or any part of it.

(e) Upon the death of the owner, payment is due in full within 1 year for the balance of special assessments owed under section 6 plus interest due on those special assessments.

(2) If the collecting officer or the department determines that legal or equitable title to a homestead or any part of a homestead for which special assessments are deferred under this act is conveyed or transferred or a contract to sell the homestead or part of a homestead is entered into, and the deferment is not terminated, the owner or owner's estate is subject to an interest rate of 1% per month or fraction of a month, on the amount deferred, computed from the date of conveyance, transfer, or contractual agreement. The amount of interest is payable to the collecting officer and must be transmitted by that office pursuant to section 9.

(3) The department shall notify each owner whose special assessments are authorized to be deferred under this act that if legal or equitable title to the homestead or any part of the homestead is conveyed or transferred or a contract to sell the homestead or part of the homestead is entered into, the deferment is terminated and the amount deferred is immediately due and payable, plus interest as provided in subsection (2).

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History: 1976, Act 225, Imd. Eff. Aug. 4, 1976 ;-- Am. 1980, Act 403, Imd. Eff. Jan. 8, 1981 ;-- Am. 2020, Act 331, Imd. Eff. Dec. 29, 2020

211.763 Deferment of special assessments on homesteads; eligibility; limitation on household income; gross amount of special assessment; maximum dollar amount of household income; adjustment; reacquisition of property purchased through tax sale; land contract as special assessment; borrowing money from lending institution to pay special assessment; repayment from special revolving fund; lien.

Sec. 3.

(1) An owner of a homestead who is 65 years of age or older or who is totally and permanently disabled, a citizen of the United States, a resident of this state for 5 or more years, and the sole owner of the homestead for 5 or more years is eligible for the deferment of special assessments on that homestead pursuant to this act. The owner and the owner's spouse shall not have received during the last calendar year household income as defined in section 508 of Act No. 281 of the Public Acts of 1967, as amended, being section 206.508 of the Michigan Compiled Laws, in excess of $8,000.00; this amount shall be increased to $10,000.00 for the determination of eligibility for a deferment after December 31, 1982. The gross amount of the special assessment, exclusive of interest, shall not be less than $300.00.

(2) The maximum dollar amount of household income required by subsection (1) to be eligible for the deferment of special assessments under this act shall be adjusted each year beginning on January 1, 1984, pursuant to the annual average percentage increase or decrease in the Detroit consumer price index—all items as defined and reported by the United States department of labor, bureau of labor statistics. The adjustment shall be made by multiplying the annual average percentage increase or decrease in the Detroit consumer price index for the prior calendar year by the current maximum dollar amount of the household income requirement as adjusted by this subsection. The resultant product shall be added to the maximum dollar amount of the household income requirement as adjusted by this subsection and then rounded off to the nearest whole number, which shall be the new household income requirement for the current year.

(3) After January 1, 1975, a person 65 years of age or older who otherwise qualifies under this section for deferral of special assessments who fails to pay a prior delinquent special assessment and thereby lost the property to the local unit of government who purchased the property through tax sale may reacquire the property from the local unit of government through a land contract. The land contract for a parcel of property reacquired under the circumstances set forth in this subsection shall be treated as a special assessment for purposes of this act.

(4) The owner of a homestead who is 65 years of age or older or is totally and permanently disabled, a citizen of the United States, a resident of this state for 5 or more years, and the sole owner of the homestead for 5 or more years, in the year the special assessment was levied, and who has borrowed money from a lending institution to pay

a special assessment before the effective date of this subsection, shall be eligible to receive money from the special revolving fund created in section 10, to be used for the purpose of repaying the lending institution the principal amount used by the person to pay the special assessment. The department shall cause a lien on the homestead in favor of the state to be recorded with the appropriate register of deeds, indicating the amount of the money paid and identifying the homestead. Money paid from the fund under this subsection shall be treated as if the money had been paid as deferred special assessment.

History: 1976, Act 225, Imd. Eff. Aug. 4, 1976 ;-- Am. 1976, Act 437, Imd. Eff. Jan 13, 1977 ;-- Am. 1978, Act 360, Imd. Eff. July 22, 1978 ;-- Am. 1980, Act 403, Imd. Eff. Jan. 8, 1981

211.764 Application for deferment; affidavit form; signature; contents; consent of mortgagee or land contract vendor; filing.

Sec. 4.

An owner may apply to the local assessing officer for deferment of the payment of special assessments on the owner's homestead. The application shall be made upon an affidavit form to be furnished and made available by the department at convenient locations throughout the state. The affidavit form shall contain the following statement in 10-point boldface type located immediately above the affiant's signature: "If this deferment is authorized the state will place a lien on your property." A person making a false affidavit for the purpose of obtaining deferment of special assessments under this act is guilty of perjury. If the homestead is owned jointly by husband and wife, each spouse shall sign and file the affidavit. If the homestead is encumbered by a mortgage or an unpaid balance on a land contract, a deferment of special assessments shall not be made without the written consent of the mortgagee or the land contract vendor, which shall be filed with the affidavit. The affidavit shall be filed with the local assessing officer at least 30 days after the due date of a special assessment or installment of a special assessment for which deferment is requested.

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History: 1976, Act 225, Imd. Eff. Aug. 4, 1976 ;-- Am. 1976, Act 437, Imd. Eff. Jan. 13, 1977 ;-- Am. 1980, Act 403, Imd. Eff. Jan. 8, 1981

211.765 Examination of affidavit by local assessing officer; inspections, investigations, and surveys; compelling information; decision; notice; finality.

Sec.5.

Upon receipt of the affidavit, the local assessing officer shall promptly examine it to determine if the applicant meets the requirements of this act and shall make an inspection of the property and property records and conduct an investigation and survey as it deems necessary. An applicant shall not be compelled to supply information not reasonably essential to a proper determination of the eligibility of the owner and the homestead for the relief provided under this act. The local assessing officer shall promptly make its decision with respect to an application under this section and shall notify the applicant of its decision not later than the due date for a special assessment involved in the application. A decision of the local assessing officer shall be final except as otherwise provided pursuant to the constitution.

History: 1976, Act 225, Imd. Eff. Aug. 4, 1976 ;-- Am. 1976, Act 437, Imd. Eff. Jan. 13, 1977

211.766 Payment of special assessment by department to indemnify local special assessment districts; lien; notice to county treasurer; record; delinquent tax roll requirements; distribution of amount received from department; notation on current tax roll.

Sec. 6.

The department shall pay the entire balance owing, including delinquent amounts, of the special assessment of an applicant who qualifies under this act. The department shall transmit to the collecting officer the sum of money required to indemnify the local special assessment district for a revenue loss resulting from the deferment of the special assessment. At the same time, the department shall cause the recording of a lien in favor of the state with the register of deeds and notify the county treasurer of the special assessment deferred, indicating the amount deferred for each special assessment and identifying the homestead. The county treasurer shall keep a record of the notice and shall require that the homestead be included in the subsequent return of delinquent taxes by each collecting officer, that the property is identified on the delinquent roll as provided in this act, and that the amount of special assessment shown on the roll as due and unpaid are the same as the amount approved by the department for deferment. The sum received by the collecting officer from the department shall be distributed to the several special assessment districts in direct proportion to their respective shares of the total of special assessments deferred in the same manner that distribution would be made had the same amount been received from the payment of the special assessments. The collecting officer shall enter on the current tax roll opposite each homestead for which deferment is allowed a notation that payment is deferred pursuant to this act.

History: 1976, Act 225, Imd. Eff. Aug. 4, 1976 ;-- Am. 1976, Act 437, Imd. Eff. Jan. 13, 1977

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211.767 Duties of city, township, or village treasurer; collection of special assessments.

Sec. 7.

The treasurer of any city, township, or village, required by Act No. 206 of the Public Acts of 1893, as amended, being sections 211.1 to 211.157 of the Michigan Compiled Laws, to make a return of delinquent taxes to the county treasurer, shall include in the delinquent tax roll all homesteads for which deferment of special assessments are approved, and shall enter on the delinquent tax roll opposite each such item a notation that payment is deferred pursuant to this act. In a city collecting its own delinquent taxes, the treasurer similarly shall note on the city tax record of each such property that payment is deferred pursuant to this act. The collection of special assessments deferred for all such homesteads shall be made thereafter only in accordance with this act, any law, ordinance, or charter to the contrary notwithstanding.

History: 1976, Act 225, Imd. Eff. Aug. 4, 1976

211.768 Termination of deferment; collection procedures; collection fees, interest, penalties, and other charges inapplicable; amount of lien for deferred special assessments.

Sec. 8.

Upon termination of the deferment of special assessments under this act, the collection procedures of Act No. 206 of the Public Acts of 1893, as amended, and any provisions of any law, ordinance, or charter applicable to the collection of delinquent taxes in a city collecting its own delinquent taxes, suspended by the terms of this act during the period of deferment, shall again apply to the deferred special assessments the same as they would have applied had no deferment been authorized and all of the special assessments had been levied initially in the third year preceding the calendar year in which the deferment was terminated, except that the provisions of those laws, ordinances, and charters with respect to collection fees, interest, penalties, and other charges shall not be applicable to the collection of, or foreclosure of the lien for special assessments deferred hereunder. The lien for deferred special assessments shall be for the amount of the special assessments only and shall not have any additional fee, penalty, or interest added except as provided in this act.

History: 1976, Act 225, Imd. Eff. Aug. 4, 1976

211.768a Payment of deferred special assessments; interest; notice; lien to include interest; refund; reapplication for reinstitution of previously deferred special assessment.

Sec. 8a.

(1) Except for an owner or owner's estate qualifying for deferment of special assessments under this act before January 8, 1981, the payment of special assessments deferred under this act made by the owner or owner's estate shall include interest computed for periods after January 8, 1981, at a rate of 1/2 of 1% per month or fraction of a month.

(2) The department shall notify each owner whose special assessments are authorized to be deferred under this act of the interest rate provided in this section.

(3) The lien created in section 6 for special assessments deferred under this act shall include an amount of interest as provided in this section.

(4) The department of treasury shall refund to each owner who, before the effective date of this subsection, paid their special assessment and was subject to the interest payment of subsection (1), an amount equal to the difference between the interest paid and the interest which would have been due at a rate of 1/2 of 1% per month or fraction of a month.

(5) If a deferment of a special assessment was terminated by an owner solely by payment of the deferred special assessment after January 8, 1981, and before the effective date of this subsection, the owner may reapply within 60 days of the effective date of this subsection to the local assessing officer for reinstitution of the previously deferred special assessment and the department of treasury shall refund the amount of the special assessment paid and redeferred to the owner.

History: Add. 1980, Act 403, Imd. Eff. Jan. 8, 1981 ;-- Am. 1981, Act 59, Imd. Eff. June 4, 1981

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211.769 Reimbursement of department for sums advanced.

Sec. 9.

Upon receipt of payment of special assessments deferred under this act, the collecting officer shall forthwith transmit the amount received to the department as reimbursement for the sums theretofore advanced, to indemnify the local special assessment districts.

History: 1976, Act 225, Imd. Eff. Aug. 4, 1976

211.770 Special revolving fund.

Sec. 10.

(1) There is created a special revolving fund within the department to pay special assessments under this act and the sum of $3,000,000.00 of the principal of the Michigan veterans' trust fund shall be used for this investment purpose.

(2) An amount which is paid by the department to a local assessment district for a deferred special assessment shall be paid from the special revolving fund created in subsection (1).

(3) From the amounts received by the department as payment for deferred special assessments under this act, the department shall credit, on a quarterly basis, 1/2 of the total amount received to the special revolving fund created in this section, and shall transmit the remainder of this quarterly payment to the Michigan veterans' trust fund.

(4) Interest received pursuant to section 8a, and civil penalties received pursuant to section 2, shall be credited in full to the special revolving fund created in this section.

(5) Amounts required to be transmitted to the Michigan veterans' trust fund under subsection (3) shall be reduced by the amount of principal and earnings which was returned to the Michigan veterans' trust fund before the effective date of this subsection.

History: 1976, Act 225, Imd. Eff. Aug. 4, 1976 ;-- Am. 1980, Act 403, Imd. Eff. Jan. 8, 1981

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