

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2081

BY: HUTCHCROFT

AS INTRODUCED

AN ACT RELATING TO REVENUE AND TAXATION; ENACTING THE
OKLAHOMA HOMESTEAD PROPERTY TAX DEFERRAL ACT;
PROVIDING FOR SHORT TITLE; AUTHORIZING CERTAIN
CLAIMANTS TO DEFER AD VALOREM TAXES ON HOMESTEADS;
PROVIDING CONDITIONS OF ELIGIBILITY FOR CLAIMANTS
TO ELECT DEFERRAL; AUTHORIZING DEFERRAL OF AD
VALOREM TAXES BY OTHER PERSONS; PROVIDING PROCEDURE
FOR DEFERRAL OF AD VALOREM TAXES UPON HOMESTEADS;
REQUIRING CERTAIN FILINGS AND ACCOMPANYING
INFORMATION; PROVIDING FOR CONTINUATION OF DEFERRAL
OF TAX PAYMENT; REQUIRING ANNUAL VALUATION OF
PROPERTY SUBJECT TO DEFERRAL; REQUIRING EXTENSION
OF APPLICABLE MILL LEVIES; REQUIRING INDICATION ON
ASSESSMENT ROLL OF CERTAIN INFORMATION; SPECIFYING
CONDITIONS OF ELIGIBILITY OF PROPERTY FOR DEFERRAL
OF TAX PAYMENT; REQUIRING VERIFICATION BY CLAIMANTS
AND PROVIDING PROCEDURES RELATED THERETO; PROVIDING
FOR DEFERRAL OF OBLIGATION TO PAY AD VALOREM TAXES
UPON HOMESTEADS; REQUIRING COUNTY TREASURER TO KEEP
CERTAIN RECORDS; PROVIDING FOR DEFERRED AMOUNTS OF
TAXES TO BEAR INTEREST; PROVIDING FOR COMPUTATION
OF TAX LIABILITY; PROHIBITING ELIGIBILITY FOR
CERTAIN RELIEF; PROVIDING FOR LIENS, RECORDATION
AND ATTACHMENT THEREOF; SPECIFYING PRIORITY OF

LIEN; PROVIDING FOR PAYMENT OF DEFERRED AD VALOREM TAXES AND PROVIDING CERTAIN EXCEPTIONS; AUTHORIZING CONTINUATION OF DEFERRAL UNDER CERTAIN CIRCUMSTANCES AND PROVIDING PROCEDURES RELATED THERETO; REQUIRING PAYMENT OF DEFERRED TAX AMOUNTS UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR PROCEDURES UPON PAYMENT OR FAILURE OF PAYMENT; PROVIDING FOR DEFERRAL OF TAXES FOR CERTAIN HOMES; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5020 of Title 68, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Homestead Property Tax Deferral Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5021 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by the Oklahoma Homestead Property Tax Deferral Act, a person who is the head of a household, as defined by Section 5001 of Title 68 of the Oklahoma Statutes, sixty-five (65) years of age or older as of April 1 of the year in which such person files a claim for ad valorem tax deferral and whose gross household income, as defined by Section 5001 of Title 68 of the Oklahoma Statutes, for the year preceding the year of claim does not exceed Ten Thousand Dollars (\$10,000.00) may elect to defer the ad valorem taxes levied on the homestead occupied by such person for each year that the homestead remains eligible for deferral and

that the claimant qualifies for such deferral pursuant to the provisions of the Oklahoma Homestead Property Tax Deferral Act.

B. Two or more people may jointly elect to defer the ad valorem taxes levied on their homestead provided that the head of household is at least sixty-five (65) years of age as of April 1 of the year in which ad valorem tax deferral is claimed and if the gross household income of all such claimants does not exceed Ten Thousand Dollars (\$10,000.00) for the year preceding the year in which deferral is claimed. If a guardian or conservator has been appointed for a person otherwise qualified to obtain deferral of ad valorem taxes pursuant to the provisions of the Oklahoma Homestead Property Tax Deferral Act, the guardian or conservator may act for such person in complying with the provisions of the Oklahoma Homestead Property Tax Deferral Act. A trustee of an inter vivos trust which was created by and is revocable by a person, who is both the trustor and beneficiary of the trust and who is otherwise qualified to obtain a deferral of ad valorem taxes pursuant to the provisions of the Oklahoma Homestead Property Tax Deferral Act, and who owns the fee simple estate pursuant to the provisions of a recorded instrument of sale, may act for such person in complying with the provisions of the Oklahoma Homestead Property Tax Deferral Act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5022 of Title 68, unless there is created a duplication in numbering, reads as follows:

In order to defer payment of the ad valorem taxes levied on the homestead of a claimant or claimants, a claim for such deferral shall be filed with the county treasurer of the county in which the homestead or greatest portion thereof is located. The claim shall be filed after January 1 and before April 1 of the first year for which the claimant or claimants elect to defer ad valorem taxes on the homestead. The claim for deferral shall be made upon a form

prescribed by the Oklahoma Tax Commission for such purpose and shall be accompanied by a copy of the previous year's federal income tax return for each claimant or a copy of a joint return. In the event no federal income tax return was filed, a sworn affidavit reciting facts that establish the gross household income for the previous year shall accompany the claim. The claimant or claimants shall furnish either federal income tax returns or the sworn affidavit provided for by this section for each year deferral is claimed. The claim for ad valorem tax deferral shall also contain a legal description of the real property constituting the homestead of the claimant or claimants. Claimants shall not be required to file a claim for deferral on an annual basis. Deferral of payment of ad valorem taxes shall continue in effect for each year that the claimant or claimants satisfy the requirement of gross household income and the homestead otherwise qualifies for deferral pursuant to the requirements of the Oklahoma Homestead Property Tax Deferral Act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5023 of Title 68, unless there is created a duplication in numbering, reads as follows:

Deferral of payment of ad valorem taxes shall not relieve the county assessor of the duty to annually value any property subject to deferral and such deferral shall not relieve any officer or board responsible for extending the mill levy applicable to such property each year from fulfilling such duties. The county assessor shall indicate on the ad valorem assessment roll if a parcel of real property is the subject of deferred payment of ad valorem taxes upon the homestead as provided by the Oklahoma Homestead Property Tax Deferral Act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5024 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. To qualify for ad valorem tax deferral pursuant to the provisions of the Oklahoma Homestead Property Tax Deferral Act, the property shall meet all of the following requirements as of the date the claim is filed and thereafter so long as the payment of ad valorem taxes by the taxpayer is deferred:

1. The property must be the homestead of the claimant; and

2. The claimant, the claimant and spouse or other joint claimants shall own the fee simple estate or be purchasing the fee simple estate pursuant to the provisions of a recorded instrument of sale, or two or more claimants together shall own or shall be purchasing the fee simple estate with rights of survivorship pursuant to the provisions of a recorded instrument of sale if all such claimants are domiciled upon the homestead and are applying for the deferral jointly; and

3. There can be no prohibition to the deferral of ad valorem taxes contained in any provision of federal law, rule, or regulation applicable to a mortgage, trust deed, land sale contract, or conditional sale contract, for which the homestead is security.

B. The claimant or claimants shall annually verify to the county treasurer, upon a form prescribed by the Oklahoma Tax Commission and accompanied by a sworn affidavit, that the property for which ad valorem tax deferral is claimed meets the requirements of this section for deferral status. Such form shall be filed no later than April 1 each year. The claimant, claimants or the administrator or executor of an estate shall notify the county treasurer of any change which would cause the property to be ineligible for ad valorem tax deferral if such change occurs after the annual filing date provided by this subsection. The county assessor shall notify the county treasurer of changes in status of homestead property for which deferral has been claimed.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5025 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For each year that a claimant or claimants satisfy the requirements of income eligibility and that the property for which ad valorem tax deferral is claimed remains eligible as provided by the Oklahoma Homestead Property Tax Deferral Act, the claimant or claimants shall not be obligated to make payment of the ad valorem taxes applicable to the homestead.

B. The county treasurer shall maintain a record of the total ad valorem taxes applicable to each and every parcel of property in the county for which deferral is claimed. The record shall indicate the ad valorem tax bill each year together with interest. Such record shall be organized and indexed in a manner that permits a determination of the total amount of taxes deferred by a reference to a legal description of real property and shall be located in the office of the county clerk. Interest shall accrue on the amount of deferred ad valorem taxes applicable to homestead property each year at the rate of six percent (6%) per annum. The total tax liability for any property for which deferral is claimed shall be calculated as the sum of the principal amount of taxes owed for each year of deferral and the interest accrued on each such amount.

C. If a claimant or claimants establish deferral of ad valorem tax payments upon the homestead pursuant to the provisions of the Oklahoma Homestead Property Tax Deferral Act, the claimant or claimants shall not be eligible for the relief of tax payment provided by Sections 5001 through 5009 of Title 68 of the Oklahoma Statutes.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5026 of Title 68, unless there is created a duplication in numbering, reads as follows:

Any county in which the property subject to deferral of ad valorem tax payment is located shall have a lien against any tax deferred property located in the county for the payment of deferred ad valorem taxes plus interest. The lien shall be recorded as and in the manner provided by law for the recordation of other instruments affecting title to real property and shall be in such form to clearly indicate that the lien is claimed for the payment of deferred ad valorem taxes applicable to the homestead of a claimant or claimants as provided by the Oklahoma Homestead Property Tax Deferral Act. Such lien shall be filed no later than November 1 of the first year in which deferral is established. A lien for deferred taxes shall attach to the property on November 1 of the first year in which deferral of ad valorem taxes has been established as provided by the Oklahoma Homestead Property Tax Deferral Act and shall represent a claim against the real property for any and all amounts owed as a result of deferred payment of ad valorem taxes. The tax liens for deferred ad valorem taxes shall have the priority as other real property tax liens provided by Section 234 of Title 68 of the Oklahoma Statutes.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5027 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. All deferred property taxes, including accrued interest, shall become payable when:

1. the claimant dies or all claimants die if deferral has been elected jointly; or

2. the property, with respect to which deferral of taxes has been claimed, is sold, or some person other than the claimant becomes the owner of the property; or

3. the property upon which deferral is claimed is no longer the homestead of the claimant; or

4. the tax-deferred property no longer meets the requirements of this act; or

5. the tax-deferred property is a manufactured or mobile home as defined by law and such home is removed from the real property and no longer occupied as the homestead.

B. The provisions of subsection A of this section shall not apply when the spouse of the claimant is allowed to continue the deferral of such property taxes pursuant to the provisions of the Oklahoma Homestead Property Tax Deferral Act. Deferred ad valorem taxes shall not become payable pursuant to the provisions of this section if a claimant or multiple claimants are absent from the homestead because of a physical or mental incapacity or illness requiring medical treatment in a hospital or other medical facility. Absence from the homestead for medical reasons shall not result in loss of deferred tax status for a claimant until such absence is certified by a physician or other licensed medical professional to be permanent as a result of the applicable condition.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5028 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. In the event that a claimant who has elected ad valorem tax deferral dies and is survived by a spouse or if joint claimants have elected deferral and one or more claimants dies and one or more claimants survive, the spouse of the claimant or other surviving claimants may continue the deferral of ad valorem taxes upon the homestead by filing a separate claim for deferral upon a form prescribed for such purpose by the Oklahoma Tax Commission. Such renewed claim shall be filed no later than April 1 of the year following the year of the death of a decedent or decedents.

B. If a renewed claim for ad valorem tax deferral is filed, the claimant shall be required to establish that he or she is or will be at least sixty (60) years of age as of April 1 of the year in which

the renewed claim is filed and that his or her gross household income for the year preceding the year of claim did not exceed Ten Thousand Dollars (\$10,000.00). If more than one claimant seeks renewal of the deferred status, the gross household income for all claimants cannot exceed Ten Thousand Dollars (\$10,000.00) for the preceding year.

C. After eligibility for continued deferral of ad valorem taxes is established, the spouse or other claimant shall be required to comply with all provisions of the Oklahoma Homestead Property Tax Deferral Act applicable to claimants in maintaining the deferral of tax payment.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5029 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. If the ad valorem taxes applicable to homestead property become payable as a result of loss of eligibility for such deferral by a claimant or claimants or if the homestead property no longer meets the conditions required for deferral of tax payment, all deferred taxes including accrued interest shall become due and payable to the county treasurer of the county in which the homestead is located. If the homestead is located in more than one county, the taxes shall be apportioned according to the amount owed to any county. The taxes shall be paid to the county treasurer as of August 15 of the year following the calendar year in which the taxes become payable pursuant to the provisions of the Oklahoma Homestead Property Tax Deferral Act.

B. If all amounts of deferred taxes are paid as provided by this section, the county treasurer shall certify the payment of all such taxes and cause such payment to be reflected in the indexed records of deferred status homestead properties required to be maintained in the office of the county clerk. If all amounts owing are paid, the county treasurer shall cause a release of lien for the

applicable property to be recorded as and in the manner provided by law for the recordation of instruments affecting title to real property.

C. If the full amount of taxes and interest due and owing are not paid by the date required by this section, the county shall institute proceedings to collect the delinquent taxes as and in the manner provided by law for collection of delinquent ad valorem taxes.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5030 of Title 68, unless there is created a duplication in numbering, reads as follows:

If the claimant or claimants occupy a manufactured home for which a homestead exemption is available as provided by Section 24410 of Title 68 of the Oklahoma Statutes, such property shall be eligible for deferral of ad valorem tax payment as provided by the Oklahoma Homestead Property Tax Deferral Act. If the manufactured home is removed from the real property, any amount of tax and interest due and owing as a result of deferral shall become payable to the county treasurer as are other deferred tax amounts.

SECTION 12. This act shall become effective January 1, 1993.

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