

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 22-0907.01 Ed DeCecco x4216

SENATE BILL 22-220

SENATE SPONSORSHIP

Hansen and Rankin,

HOUSE SPONSORSHIP

(None),

Senate Committees

Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE PROPERTY TAX DEFERRAL PROGRAM, AND, IN**
102 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Currently, there is a property tax deferral program (program) for the state to make a secured loan to a qualified taxpayer to pay property taxes owed for the taxpayer's homestead. In 2021, the general assembly enacted legislation to expand the program and required the governor's office, in consultation with the state treasurer, to commission a study of the program and make recommendations for possible changes. The bill

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
April 29, 2022

implements some of those recommendations, among other things.

The bill shifts current administrative responsibilities from county treasurers to the state treasurer. This includes requiring:

- A taxpayer to file a claim for deferral with the state treasurer (**section 2** of the bill);
- The state treasurer to supply the deferral forms (**section 5**);
- The state treasurer to issue the certificate of tax deferral and record the certificate with the appropriate county clerk and recorder free of charge (**section 6**);
- The county treasurer to refund any overpayment on an account that has been deferred to the person who paid the taxes (**section 8**);
- A taxpayer to tender repayment of the loan to the state treasurer (**section 9**); and
- The state treasurer to send a deferral notice to taxpayers who have previously deferred property taxes, which notice has been updated to reflect the state treasurer's administrative role (**section 10**). **Section 11** provides that the state treasurer cannot be held personally liable for failure to provide notices relating to property in the program.

In addition, **section 4** permits the state treasurer to:

- Conduct a public education campaign about the program;
- Contract with a third party to administer the program on behalf of the state treasurer; and
- Promulgate rules for the administration of the program.

Section 12 creates an exception to the requirement that a loan becomes payable for a taxpayer when a property becomes uninhabitable and loses its value as a result of natural causes, which is currently defined for property taxes to mean "fire, explosion, flood, tornado, action of the elements, act of war or terror, or similar cause beyond the control of and not caused by the party holding title to the property destroyed".

Section 13 permits the state treasurer to foreclose a deferred tax lien once taxes and accrued interest become delinquent, instead of requiring such foreclosure.

Sections 1 and 3 make conforming amendments and **sections 6 and 7** correct a defect with the initial date that interest accrues on a program loan to be consistent with another statute and current practice.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 39-3.5-101, **add** (2.5)

3 as follows:

1 **39-3.5-101. Definitions.** As used in this article 3.5, unless the
2 context otherwise requires:

3 (2.5) "STATE TREASURER" INCLUDES A THIRD-PARTY
4 ADMINISTRATOR THAT ENTERS INTO A CONTRACT WITH THE STATE
5 TREASURER TO ADMINISTER THE PROPERTY TAX DEFERRAL PROGRAM
6 CREATED IN THIS ARTICLE 3.5 IN ACCORDANCE WITH SECTION 39-3.5-103.5
7 (2).

8 **SECTION 2.** In Colorado Revised Statutes, 39-3.5-102, **amend**
9 (1)(a) and (1)(c)(I) as follows:

10 **39-3.5-102. Deferral of tax on homestead - qualifications -**
11 **filing of claim.** (1) (a) Subject to the provisions of this ~~article~~ ARTICLE
12 3.5, a person who is sixty-five years of age or older or who is a person
13 called into military service on January 1 of the year in which the person
14 files a claim under this section may elect to defer the payment of real
15 property taxes. To exercise this option, the taxpayer ~~shall~~ MUST file a
16 claim for deferral with the ~~treasurer of the county in which the taxpayer's~~
17 ~~homestead is located~~ STATE TREASURER. The claim ~~shall~~ MUST be filed
18 after January 1 and on or before April 1 of each year in which the
19 taxpayer claims the deferral.

20 (c) (I) Subject to the provisions of this article 3.5, including the
21 limitations set forth in subsection (1)(c)(II) of this section, beginning
22 January 1, 2023, a person who is not otherwise eligible for deferral under
23 this section may elect to defer the payment of the portion of real property
24 taxes that exceed the person's tax-growth cap. To exercise this option, the
25 taxpayer must file a claim for deferral with the ~~treasurer of the county in~~
26 ~~which the taxpayer's homestead is located~~ STATE TREASURER. The
27 taxpayer must file the claim after January 1 and on or before April 1 of

1 each year in which the taxpayer claims the deferral.

2 **SECTION 3.** In Colorado Revised Statutes, 39-3.5-103, **amend**
3 (1)(d.5)(II) as follows:

4 **39-3.5-103. Property entitled to deferral.** (1) In order to qualify
5 for real property tax deferral under this article 3.5, the property shall meet
6 all of the following requirements at the time the claim is filed and so long
7 thereafter as payment is deferred:

8 (d.5) (II) For purposes of this ~~paragraph (d.5)~~ SUBSECTION
9 (1)(d.5), the actual value of the property shall be the most recent appraisal
10 by the county assessor as of the time the claim for deferral is submitted.
11 ~~to the county treasurer.~~

12 **SECTION 4.** In Colorado Revised Statutes, **add** 39-3.5-103.5 as
13 follows:

14 **39-3.5-103.5. State treasurer - program administration - rules.**

15 (1) THE STATE TREASURER MAY CONDUCT A PUBLIC EDUCATION
16 CAMPAIGN ABOUT THE PROPERTY TAX DEFERRAL PROGRAM CREATED IN
17 THIS ARTICLE 3.5.

18 (2) THE STATE TREASURER MAY CONTRACT WITH A THIRD PARTY
19 TO ADMINISTER THE PROPERTY TAX DEFERRAL PROGRAM ON BEHALF OF
20 THE STATE TREASURER.

21 (3) THE STATE TREASURER MAY PROMULGATE RULES, IN
22 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, RELATED TO THE
23 ADMINISTRATION OF THE PROPERTY TAX DEFERRAL PROGRAM.

24 **SECTION 5.** In Colorado Revised Statutes, 39-3.5-104, **amend**
25 (1) introductory portion as follows:

26 **39-3.5-104. Claim form - contents.** (1) A taxpayer's claim for
27 deferral ~~shall~~ MUST be in writing on a form prescribed AND SUPPLIED by

1 the state treasurer and ~~supplied by the county treasurer and shall~~ MUST:

2 **SECTION 6.** In Colorado Revised Statutes, 39-3.5-105, **amend**
3 (1); and **add** (1.5) as follows:

4 **39-3.5-105. Listing of tax-deferred property - tax as lien -**
5 **interest accrual.** (1) If eligibility for deferral of homestead property is
6 established as provided in this ~~article~~ ARTICLE 3.5, THE STATE TREASURER
7 SHALL ISSUE A CERTIFICATE OF DEFERRAL, WHICH INCLUDES THE NAME OF
8 THE TAXPAYER, THE DESCRIPTION OF THE PROPERTY, THE AMOUNT OF TAX
9 DEFERRED, AND THE YEAR FOR WHICH THE DEFERRAL WAS GRANTED, AND
10 RECORD THE CERTIFICATE OF DEFERRAL WITH THE COUNTY CLERK AND
11 RECORDER IN THE COUNTY WHERE THE PROPERTY IS LOCATED. THE STATE
12 TREASURER SHALL NOTIFY THE COUNTY TREASURER OF A PROPERTY'S
13 ELIGIBILITY AND PROVIDE THE COUNTY TREASURER WITH THE CERTIFICATE
14 OF DEFERRAL, AND the county treasurer shall:

15 (a) Enter in ~~his~~ THE COUNTY TREASURER'S records a notation that
16 the property is tax-deferred;

17 (b) (I) ~~Promptly, upon designation of the property as tax-deferred,~~
18 ~~issue a certificate of deferral, which shall include the name of the~~
19 ~~taxpayer, the description of the property, the amount of tax deferred, and~~
20 ~~the year for which the deferral was granted. The certificate shall be~~
21 ~~recorded in the county records and thereafter sent to the state treasurer.~~
22 ~~One copy shall be given to the assessor, and~~ RETAIN one copy shall be
23 retained in the county treasurer's office.

24 (II) Promptly, upon designation of a mobile home as tax-deferred,
25 the owner of the mobile home shall surrender title to the property to the
26 ~~county clerk and recorder~~ STATE TREASURER. The county clerk and
27 recorder shall, pursuant to the provisions of article 29 of title 38, ~~C.R.S.~~,

1 make application with the department of revenue for issuance of a new
2 certificate of title with a record of the lien of the state treasurer. This
3 procedure shall be followed for each subsequent year that the property is
4 deferred. ~~The county treasurer shall issue a certificate of deferral, which~~
5 ~~shall include the name of the taxpayer, the description of the property, the~~
6 ~~amount deferred, and the tax year for which the deferral was granted, and~~
7 ~~shall send such certificate to the state treasurer. One copy shall be given~~
8 ~~to the county assessor, and one copy shall be retained in the county~~
9 ~~treasurer's office.~~ Upon satisfaction of said THE lien, the state treasurer
10 shall release the lien from said THE title.

11 (1.5) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
12 CONTRARY, A COUNTY CLERK AND RECORDER SHALL NOT CHARGE A FEE
13 FOR RECORDING THE CERTIFICATE OF DEFERRAL IN ACCORDANCE WITH
14 SUBSECTION (1) OF THIS SECTION.

15 **SECTION 7.** In Colorado Revised Statutes, 39-3.5-105.5, **amend**
16 (2) as follows:

17 **39-3.5-105.5. Loan of state money to taxpayers.** (2) Interest on
18 a loan for property tax deferral shall accrue at the rate specified in section
19 39-3.5-105 (5). The interest shall accrue beginning ~~April 30~~ MAY 1 of the
20 calendar year in which the deferral is claimed until the date on which ~~such~~
21 THE loan is repaid.

22 **SECTION 8.** In Colorado Revised Statutes, 39-3.5-106, **add** (3)
23 as follows:

24 **39-3.5-106. State treasurer to pay county treasurer an amount**
25 **equivalent to deferred taxes.** (3) IF A TAXPAYER DEFERS ALL OR PART
26 OF THE PROPERTY TAXES DUE FOR A PROPERTY TAX YEAR AND THE
27 COUNTY TREASURER RECEIVES A PAYMENT FROM, OR ON BEHALF OF, THE

1 TAXPAYER SO THAT THE TOTAL RECEIVED FROM THE STATE TREASURER
2 AND THE PAYER IS GREATER THAN THE TAXPAYER'S PROPERTY TAXES DUE,
3 THEN THE COUNTY TREASURER SHALL REFUND THE EXCESS TO THE PAYER
4 OF THE TAXES.

5 **SECTION 9.** In Colorado Revised Statutes, 39-3.5-107, **amend**
6 (2) as follows:

7 **39-3.5-107. Repayment of loans - release of liens - disposition**
8 **of payments.** (2) ~~If repayment of a loan for deferred taxes is tendered to~~
9 ~~the~~ A TAXPAYER MUST TENDER REPAYMENTS OF A LOAN FOR DEFERRED
10 TAXES TO THE STATE TREASURER, AND THE STATE TREASURER SHALL GIVE
11 THE TAXPAYER A RECEIPT THEREFOR. A county treasurer ~~he or she~~ shall
12 NOT accept ~~payment, give a receipt therefor, and forthwith transmit the~~
13 ~~money collected to the state treasurer~~ A REPAYMENT.

14 **SECTION 10.** In Colorado Revised Statutes, **amend** 39-3.5-108
15 as follows:

16 **39-3.5-108. Notice to taxpayer regarding duty to claim**
17 **deferral annually.** ~~At the time the treasurer sends the annual real~~
18 ~~property tax~~ AS SOON AS PRACTICABLE AFTER JANUARY 1, THE STATE
19 TREASURER SHALL SEND A DEFERRAL notice to any taxpayer who has
20 claimed a deferral of property taxes in the previous calendar year. ~~he shall~~
21 ~~enclose a deferral notice.~~ The deferral notice ~~shall~~ MUST be substantially
22 in the following form:

23 To: (name of taxpayer)

24 If you want to defer the collection of ad valorem property taxes on
25 your homestead for the assessment year ending on December 31, __, you
26 must file a claim for deferral not later than April 1, __, ~~in the office of the~~
27 ~~county treasurer~~ WITH (STATE TREASURER OR THE NAME OF THIRD-PARTY

1 ADMINISTRATOR, IF APPLICABLE). Forms for filing ~~such~~ THE claims are
2 available at ~~the county treasurer's office~~ (WEBSITE AND MAILING ADDRESS
3 FOR STATE TREASURER OR THIRD-PARTY ADMINISTRATOR, IF APPLICABLE).

4 If you fail to file your claim for deferral on or before April 1, __,
5 your real property taxes will be due and payable in accordance with the
6 schedule set out in the ~~enclosed~~ tax notice YOU SEPARATELY RECEIVED
7 FROM YOUR COUNTY TREASURER.

8 If you change your permanent address at any time during the
9 assessment year ending on December 31, __, you must notify the ~~county~~
10 ~~assessor~~ STATE TREASURER promptly.

11 **SECTION 11.** In Colorado Revised Statutes, **amend** 39-3.5-109
12 as follows:

13 **39-3.5-109. Failure to receive notices.** Failure to receive the
14 notice provided for in this ~~article~~ ARTICLE 3.5 is not a defense in any
15 proceeding for the collection of taxes or for the foreclosure of a tax lien.
16 NEITHER the STATE treasurer NOR A COUNTY TREASURER is ~~not~~ personally
17 liable for failure to give such notices.

18 **SECTION 12.** In Colorado Revised Statutes, 39-3.5-110, **amend**
19 (1)(c) and (1)(d); and **add** (1)(d.5) and (1.5) as follows:

20 **39-3.5-110. Events requiring repayment of loans - notice to**
21 **state treasurer.** (1) All loans for deferred real property taxes, including
22 accrued interest, shall become payable subject to sections 39-3.5-111 and
23 39-3.5-112 when:

24 (c) The property is no longer the homestead of the taxpayer who
25 claimed the deferral, except in the case of a taxpayer required to be absent
26 from such tax-deferred property by reason of ill health OR BECAUSE THE
27 PROPERTY IS UNINHABITABLE AS A RESULT OF NATURAL CAUSES;

1 (d) The tax-deferred property no longer meets the requirements
2 REQUIREMENT of section 39-3.5-103 (1)(c); ~~or (1)(f)~~;

3 (d.5) THE TAX-DEFERRED PROPERTY NO LONGER MEETS THE
4 REQUIREMENT OF SECTION 39-3.5-103 (1)(f), EXCEPT IN THE CASE OF A
5 PROPERTY WHOSE VALUE HAS DECREASED AS A RESULT OF NATURAL
6 CAUSES;

7 (1.5) THE EXCEPTIONS RELATED TO NATURAL CAUSES SET FORTH
8 IN SUBSECTIONS (1)(c) AND (1)(d.5) OF THIS SECTION APPLY FOR THREE
9 YEARS FROM THE DATE OF THE NATURAL CAUSE OR UNTIL THE DATE THAT
10 THE PROPERTY IS NO LONGER VALUED AS VACANT RESIDENTIAL LAND,
11 WHICHEVER DATE IS SOONER.

12 **SECTION 13.** In Colorado Revised Statutes, 39-3.5-111, **amend**
13 (3) as follows:

14 **39-3.5-111. Time for payment - delinquencies.** (3) If a loan for
15 deferred taxes and accrued interest is not paid on the due date, such
16 amounts are delinquent as of that date, and the state treasurer ~~shall~~ MAY
17 foreclose the deferred tax lien.

18 **SECTION 14. Appropriation.** (1) For the 2022-23 state fiscal
19 year, \$1,725,883 is appropriated to the department of the treasury for use
20 by the administration division. This appropriation is from the general
21 fund. To implement this act, the division may use this appropriation as
22 follows:

23 (a) \$788,184 for personal services, which amount is based on an
24 assumption that the division will require an additional 16.0 FTE; and

25 (b) \$937,699 for operating expenses.

26 **SECTION 15. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, or safety.