

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 491
Ways and Means

(Delegate McConkey)

Anne Arundel County - Property Tax Payment Deferral - Eligibility

This bill authorizes Anne Arundel County to provide, by law, a property tax payment deferral for residential real property occupied as the principal residence of the owner. To be eligible, the property owner must have lived in the dwelling for the previous five years, meet specified age requirements (the minimum age of an eligible owner may not be more than 65 years old), or be permanently and totally disabled, and meet specified income requirements. The amount of the deferral is limited to the increase in county property taxes from the date of deferral.

The bill takes effect June 1, 2010, and is applicable to all taxable years beginning after June 30, 2010.

Fiscal Summary

State Effect: None.

Local Effect: Potential minimal decrease in Anne Arundel County property tax revenues during any deferral period. The amount of any revenue decrease depends on the nature of the deferral program that is established and the number of participants in a given year. Revenues will increase upon repayment. County expenditures may increase depending on the nature of any program implemented.

Small Business Effect: None.

Analysis

Bill Summary: The Anne Arundel County Council is authorized to enact a property tax payment deferral program. The bill requires the county council to specify the following criteria if a deferral program is authorized: (1) a minimum age requirement of no more than 65 years of age; (2) the amount of tax that may be deferred and the duration of the deferral; (3) restrictions on the amount of real property eligible for a payment deferral; (4) the interest rate; (5) a requirement that any mortgagee or beneficiary under a deed of trust receive specified notification; and (6) income eligibility. The bill specifies that deferred county property taxes are due when the deferral ends, the eligible owner dies, or immediately on transfer of ownership of the property.

The bill also provides for other requirements and criteria related to the administration of property tax deferral payments in Anne Arundel County, including: (1) a requirement that the cumulative amount of the tax deferral and interest be included in the taxpayer's annual property tax bill; (2) a lien must be attached to the property in the amount of all deferred taxes and interest and must remain until all deferred taxes and interest are paid; and (3) the deferral must be authorized by a written agreement reflecting the terms and conditions of the deferral. Finally, the bill provides that penalties may not be charged during the deferral period on deferred taxes.

Current Law: Counties and municipalities are authorized to defer the payment of the increase in county and municipal property taxes for owner-occupied residential real property of an elderly or disabled homeowner, for property that is the principal residence of the individual. (*See Tax – Property Article § 10-204.*)

Statute provides specified age and eligibility requirements (at least 65 years of age, living in the home for at least five years, and/or permanently or totally disabled). The law also provides for the procedures that local governments must follow when implementing a property tax deferral program, including payment dates, amounts of deferral and interest to be reported on annual tax bills, lien provisions, and penalties.

Background: Property tax deferral programs typically give low-income elderly homeowners the opportunity to defer payment of property taxes. Under most deferral programs, deferred property taxes become a lien against the value of the taxpayer's home. When the home is sold, any back taxes and interest are then due. If the homeowner dies, deferred taxes must be paid upon settlement of the estate.

Several Maryland counties offer a property tax deferral program for senior citizens and other special categories of homeowners. **Exhibit 1** provides a brief summary of each local program. The State Department of Assessments and Taxation (SDAT) and the

counties have indicated that only a small number of taxpayers have used the property tax deferral programs noted above.

The most used deferral program is in Howard County, where 112 individuals are using the program. Six individuals in Anne Arundel County and one individual in Montgomery County are using each county's program. Currently no one is using the deferral programs in either Baltimore or Prince George's counties.

Exhibit 1

Summary of Local Property Tax Deferral Programs

Jurisdiction

Program Summary

Anne Arundel County	Deferred tax payment program for owner-occupied homes of elderly (65 and over) or disabled individuals. Gross income limit of \$50,000. The program allows for a 50-year payment deferral; the amount deferred may not exceed the increase in county property taxes on the date of deferral.
Annapolis	Deferred tax payment program for owner-occupied homes of elderly (65 and over) or disabled individuals. Gross income limit of \$50,000. The program allows for a 50-year payment deferral; the amount deferred may not exceed the increase in county property taxes on the date of deferral. Interest accrues at 4% annually.
Baltimore County	Deferred tax payment program for owner-occupied homes of elderly (65 and over) or disabled individuals who have owned and occupied the property for the preceding five years. Gross income limit of \$30,000. The amount the taxpayer may defer for any one year is the amount that county taxes due exceed the amount of county property taxes paid the preceding taxable year. Accumulated deferred taxes and accrued interest may not exceed 20% of the assessed value of the property. Interest accrues at 9% annually.
Cecil County	Deferred tax payment program for owner-occupied homes of elderly (65 and over) or disabled individuals. Gross income limit of \$60,000. The homeowner may defer the amount by which the county property taxes due exceed the amount paid by the homeowner the preceding taxable year. Accumulated deferred taxes and accrued interest may not exceed 50% of the assessed value of the property. Interest accrues at 0% annually.
Frederick County	Deferred tax payment program for owner-occupied homes of elderly (65 or older) or disabled individuals. Gross income limit of \$55,000. The amount deferred is the amount of increase in the county property tax from the date the homeowner elects to defer the payment of this tax. Only county property taxes are deferred and taxes of a special taxing district including the tax for fire and rescue services may not be deferred. Interest accrues at 3% annually.

Jurisdiction**Program Summary**

Harford County	Deferred tax installment program for taxpayers experiencing financial hardship with property deferred from annual tax sale. All prior taxes must be paid before a person is eligible for tax deferral. The taxpayer must pay the deferred taxes in monthly payments and have the deferred taxes paid by December 1 of the year in which the tax sale would have occurred. The interest must continue to accrue on the taxpayer's tax bill.
Howard County	Deferred tax payment program for property owners ages 65 and over or disabled individuals who have lived in their current dwelling for the previous five years. Income cannot exceed \$75,000. The homeowner may defer the amount by which the county property taxes due exceed the amount paid by the homeowner the preceding taxable year. Accumulated deferred taxes and accrued interest may not exceed 50% of the assessed value of the property. Interest accrues at 0% annually.
Montgomery County	Deferred tax payment program based on household income, rather than age. Specified residents may defer any increase in taxes over the tax liability at the time of the deferral. The homeowner must have resided at the property for five years and have a gross income of less than \$120,000. The deferral may not exceed 50% of the value of the property. The interest rate is set annually and based on the prime rate.
Prince George's County	Deferred tax payment program for owner-occupied homes of elderly (65 and over) or disabled individuals. Gross income may not exceed \$45,000 in the prior year. Deferred taxes may not exceed the increase in the county property tax rate from the date of deferral. The full amount of deferred taxes and interest may not exceed 50% of the full cash value of the property. Interest accrues at 9% annually.
Queen Anne's County	Deferred tax payment program for owner-occupied homes of elderly or disabled individuals. Gross income is limited to \$100,000. The program allows for a 50-year payment deferral equal to but not exceeding the increase in county property taxes on eligible real property taxes on the date of deferral. Interest accrues at 2% annually.
St. Mary's County	Deferred tax payment program for owner-occupied homes of elderly (65 and over) or disabled individuals who have owned and occupied the property for the preceding five years. Gross income limit of \$27,340 as adjusted annually by applying the National Consumer Price Index for All Urban Consumers and combined net worth of \$200,000. The amount of taxes that may be deferred for any one year is the amount that eligible taxes due exceeds the amount of eligible taxes in the base year. Interest rate charged on county taxes, currently 12%.

Source: Maryland Association of Counties, State Department of Assessments and Taxation, Department of Legislative Services

Programs in Other States

Property tax deferral programs exist in 26 states and the District of Columbia. However, in several of these states, programs are provided at the option of local governments. In some states, the deferral of all property taxes due is allowed, while in others, only a portion may be deferred so that property tax bills do not increase by more than a specified percentage. **Exhibit 2** provides a summary of tax deferral programs in surrounding states as noted in a National Conference of State Legislatures report, and updated by Legislative Services.

Exhibit 2 Property Tax Deferral Programs in Nearby States

<u>State</u>	<u>Age Limit</u>	<u>Income Cap</u>	<u>Description</u>
Delaware	n/a	n/a	None
District of Columbia	None	None	Qualified owners of residential realty may apply for deferral each year if residential realty tax owed is in excess of 110% of the preceding year's tax.
Maryland	65 and over	Local limits	Local option for counties and cities to defer property taxes.
New Jersey	n/a	n/a	None
North Carolina	65 and over	Not to exceed \$62,500; specified annual COLA adjustments	Qualified homeowners who are eligible for the property tax circuit breaker may defer property taxes, under specified conditions.
Pennsylvania	None	\$15,000	Local option to defer property tax increases. A deferral may not be granted if the amount of the deferred taxes, the liens on the residence, and the principal remaining on the taxpayer's mortgage for the residence is greater than 85% of the residence's market value. A deferral also will be denied if the outstanding principal on all mortgages is more than 70% of the residence's market value.
Virginia	65 and over	\$50,000	Local option to provide a deferral of realty taxes if combined net worth, excluding the value of the dwelling and lot, is not over \$75,000. Specific counties, cities, and towns may raise the maximum total combined income.
West Virginia	65 and over	None	Qualified owner of a homestead, who is not living at the homestead due to illness, accident, or infirmity, provided the homestead was recently used and occupied exclusively for residential purposes by the owner's spouse.

Source: National Conference of State Legislatures, Department of Legislative Services

Local Fiscal Effect: Anne Arundel County property tax revenues may decrease as a result of the bill. The amount of any decrease cannot be reliably estimated and depends on the nature of any deferral program that is established by the county and the number of participants in a given year. However, based on the fact that very few properties owners use deferral programs, any associated revenue decrease is likely to be minimal. Revenues would increase in the years that any deferred payments are paid back.

For fiscal 2011, there are 148,837 owner-occupied properties in Anne Arundel County; the average assessment is \$388,692. SDAT indicates that six property owners are participating in the current county deferral program, and there are an additional 49 applications pending.

The county indicates that establishing a deferral program under the bill will increase county expenditures by approximately \$420,000 annually, including \$290,000 in staffing costs to hire additional staff to process applications and administer the program. However, Legislative Services advises that the bill is authorizing in nature and does not require the county to enact the program. Any future expenditure increase depends on the nature of the deferral program enacted, when the program is enacted, and the number of applicants and participants in the program.

Additional Information

Prior Introductions: SB 298/HB 1455 of 2009 received a hearing in the Senate Budget and Taxation Committee and the House Ways and Means Committee, respectively, but no further action was taken on either bill.

Cross File: SB 271 (Senators Simonaire and Reilly) – Budget and Taxation.

Information Source(s): Anne Arundel County, Department of Legislative Services

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