

Date of Hearing: June 15, 2016

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Susan Talamantes Eggman, Chair

SB 909 (Beall) – As Amended March 29, 2016

**SENATE VOTE:** 39-0

**SUBJECT:** Property tax postponement: special needs trust claimants.

**SUMMARY:** Authorizes qualified beneficiaries of special needs trusts to apply to the State Controller to defer payment of property taxes through the Senior Citizens and Disabled Citizens Property Tax Postponement (PTP) Program. Specifically, **this bill:**

- 1) Adds the interest of a beneficiary of a special needs trust, in which title is held in trust, to the list of ownership interest in a residential dwelling defined in existing law for the purposes of eligibility for the PTP Program.
- 2) Provides that no reimbursement is required by this bill because the only costs that may be incurred by a local agency or school district will be incurred because this bill creates a new crime or infraction, eliminates a crime or infraction, or changes the penalties for a crime or infraction, as specified.

**EXISTING LAW:**

- 1) Creates the PTP Program in the State Treasury, which is continuously appropriated to the Controller for purposes of administering the PTP Program, including, but not limited to, necessary administrative costs and disbursements relating to the postponement of property taxes pursuant to the PTP Law.
- 2) Requires all sums paid by the Controller to be secured by a lien in favor of the State of California when funds are transferred to the county by the State Controller upon the real property for which property taxes have been postponed.
- 3) Allows the Controller to start accepting new applications for the PTP Program on July 1, 2016.

**FISCAL EFFECT:** According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

**COMMENTS:**

- 1) **Existing Law and Bill Summary.** Under existing law, the PTP program is limited to a claimant's principal place of residence, which is owned by the claimant, the claimant and spouse, the claimant and another individual eligible for the program, or specified members of the claimant's family. A claimant must demonstrate ownership interest in the property, which is defined by current law, as follows: a) the interest of a vendee in possession under a land sale contract, provided that it is recorded; b) the interest of a holder of a life estate; c) the interest of a joint tenant or tenant in common in the residential dwelling; d) the interest of a tenant in cooperative housing; or, e) the interest of a residential dwelling in which title is

held in trust, pursuant to a specified definition of trust in the Revenue and Taxation Code, which is either revocable, or where the transferor of assets into the trust is also its beneficiary. Additionally, existing law tasks the Controller with making the determination that the state's interest is adequately protected in each PTP loan.

The definition of ownership interest in a property used to determine eligibility does not currently include a special needs trust. A special needs trust is a specific type of trust that can be created by individual beneficiaries, family members, attorneys, or county public guardians or conservators to benefit a person with a disability while allowing that person to continue to be eligible for public benefits. Many programs like Medi-Cal and Supplemental Security Income, require asset or income requirements that may disqualify a beneficiary. A special needs trust allows trustees to manage a beneficiary's affairs, if they are unable to manage their own affairs, and to ensure that the beneficiary continues to receive essential services.

This bill expands the definition of ownership to include the beneficiary of a special needs trust to the types of ownership interests eligible to participate in the PTP program. All existing eligibility requirements in current law for potential claimants to the PTP program would still apply.

- 2) **Author's Statement.** According to the author, "A special needs trust is designed for beneficiaries who are disabled, either physically or mentally. Some special needs trust beneficiaries have financial difficulty in meeting their property tax obligations and meet the financial qualifications for the Property Tax Postponement Program. However, because the trust itself, rather than the individual, is considered to be the technical owner of the residence held in trust, special needs trust beneficiaries are considered ineligible for the program. Thus, under current law, some special needs trust beneficiaries who have financial difficulty meeting their tax obligations may be forced to move from their homes because they are not able to defer their tax burden.

SB 909 would clarify that beneficiaries of special needs trusts who meet all other criteria for participation are eligible to apply for the property tax postponement program. This bill will allow low-income, disabled individuals to stay in their own home regardless of whether their homes are held in trust."

- 3) **PTP Program.** California has several property tax programs benefiting elderly and disabled individuals, including property tax reappraisal relief, property tax assistance, and the PTP program. Unlike the property tax assistance program that refunds a percentage of property taxes paid, the PTP program allows eligible homeowners to defer payment of all or a portion of the property taxes on their residences. Under the PTP program, the Controller makes payments directly to county tax collectors on behalf of individuals over the age of 62 or disabled persons with less than \$39,000 annual income to pay their property taxes. In exchange for paying a claimant's property taxes, a lien is placed on the claimant's property. The loan is secured by the property and is repaid when the home is sold or refinanced.

The program was enacted in 1977, after the passage of a constitutional amendment authorizing the postponement of property taxes (California Constitution, Article XIII, Section 8) and is administered by the Controller's Office. The constitutional amendment was in response to concerns that senior homeowners on fixed incomes could lose their homes

because of the inability to pay rising property tax bills. Originally designed for persons over 62 years of age, the program is now also available to eligible blind and disabled persons, regardless of age.

On February 20, 2009, the PTP Program was indefinitely suspended as part of the budget reductions to the state's General Fund programs [SBx3 8 (Ducheny), Chapter 4, Statutes of 2009]. The funding for the program was eliminated and the Controller was prohibited from accepting any new applications after February 20, 2009. In response to the negative impacts of the suspension of the PTP Program, AB 1718 (Blumenfield) of 2010 was introduced. AB 1718 would have established the County Deferred Property Tax Program for Senior Citizens and Disabled Citizens, but was vetoed by Governor Schwarzenegger. Subsequently, the Legislature enacted AB 1090 (Blumenfield), Chapter 369, Statutes of 2011, creating the County Deferred Property Tax Program. AB 1090 was substantially similar to AB 1718, except that it did not allow the county treasurer-tax collector to secure the deferral with a superior priority status lien.

In contrast to the PTP program that was funded exclusively by General Fund moneys, the County Deferred PTP program was self-financing. It was funded by a participating county through a fund to be established within its treasury. Upon adoption of a resolution by the county's governing body, and with the consent of the county treasurer, excess county funds are deposited in the fund for the purpose of providing property tax postponement loans to qualified claimants. AB 1090 established uniform statewide eligibility criteria for the claimants and certain rules and guidelines for a County Deferred Property Tax program. Since the passage of AB 1090, the Legislature was only aware of one county (Santa Cruz County) that implemented the optional program.

AB 2231 (Gordon), Chapter 703, Statutes of 2014, reinstated a modified PTP Program to provide property tax deferment to seniors and disabled persons and allows income-eligible senior citizens and disabled persons to apply to the Controller to defer payment of property taxes, beginning on July 1, 2016. Though the funding for the previous program was eliminated in 2009, the statute remained.

- 4) **Arguments in Support.** Santa Clara County argues that this bill "will allow special needs trust entities to be qualified claimants in the [PTP] program when the residential dwelling held by the trust is occupied by its beneficiary who is a senior or disabled. This change will allow a special needs trust beneficiaries to participate in the program. The ability to defer property tax payment will provide financial relief for elderly and disabled people, enabling them to remain in their homes."
- 5) **Arguments in Opposition.** The Department of Finance "opposes this bill because it exposes the General Fund to potentially significant costs if the number of qualified special needs trust applicants exceeds the available Program repayment revenues."
- 6) **Double-Referral.** This bill is double-referred to the Revenue and Taxation Committee.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Santa Clara County [SPONSOR]

California State Association of Public Administrators, Public Guardian, and Public Conservators

The Arc and United Cerebral Palsy California Collaboration

**Opposition**

Department of Finance

**Analysis Prepared by:** Misa Lennox / L. GOV. / (916) 319-3958