

TITLE V TAXATION

CHAPTER 72 PERSONS AND PROPERTY LIABLE TO TAXATION

Property Taxes

Section 72:38-a

72:38-a Tax Deferral for Elderly and Disabled. –

I. Any resident property owner may apply for a tax deferral if the person:

- (a) Is either at least 65 years old or eligible under Title II or Title XVI of the federal Social Security Act for benefits for the disabled; and
- (b) Has owned the homestead for at least 5 consecutive years if the person qualifies as an elderly applicant, or has owned the homestead for at least one year if the person qualifies as a disabled applicant; and
- (c) Is living in the home.

The assessing officials may annually grant a person qualified under this paragraph a tax deferral for all or part of the taxes due, plus annual interest at 5 percent, if in their opinion the tax liability causes the taxpayer an undue hardship or possible loss of the property. The total of tax deferrals on a particular property shall not be more than 85 percent of its equity value. The total of tax deferrals shall be determined by the following formula:

Assessed Value = Equalized Assessed Value

Equalization Ratio

Equalized Assessed Value - Total of Priority Liens = Equity Value

Equity Value X .85 = Total Amount Which May be Deferred

At any time during the tax deferral process, the governing body may consider an abatement pursuant to RSA 76:16.

II. A tax deferral shall be subject to any prior liens on the property and shall be treated as such in any foreclosure proceeding.

II-a. No person shall be entitled to the deferral under this section unless the person has filed with the selectmen or assessors, by March 1 following the date of notice of tax under RSA 72:1-d, a permanent application therefor, signed under penalty of perjury, on a form approved and provided by the commissioner of revenue administration, showing that the applicant is the true and lawful owner of the property on which the deferral is claimed and that the applicant is duly qualified at the time of application. Any person who changes residence after filing such a permanent application shall file an amended permanent application on or before December 1 immediately following the change of residence. The filing of the permanent application shall be sufficient for said persons to receive a deferral on an annual basis so long as the applicant does not change residence; provided, however, that towns and cities may require an annual application for the tax deferral authorized for the elderly and disabled by this section. The form shall include the following and such other information deemed necessary by the commissioner:

- (a) Instructions on completing and filing the form, including an explanation of the grounds for requesting a deferral.
- (b) Sections for information concerning the applicant, the property for which the relief is sought, and other properties owned by the person applying.
- (c) A section explaining the appeal procedure and stating the appeal deadline in the event the municipality denies the tax relief request in whole or in part.
- (d) A place for the applicant's signature with a certification by the person applying that the application has a good faith basis and the facts in the application are true.

III. If the property is subject to a mortgage, the owner must have the mortgage holder's approval of the tax deferral. Such approval does not grant the town a preferential lien.

IV. When the owner of a property subject to a tax deferral dies, the heirs, heirs-at-law, assignee, or devisee shall have first priority to redeem the estate by paying in full the deferred taxes plus any interest due. If the heirs, heirs-at-law, assignees, or devisees do not redeem the property within 9 months of the date of death of the property owner, the municipality may commit the accrued amount of the deferral to the collector of taxes with a warrant signed by the assessing officials requiring him or her to collect it; and the collector of taxes shall have the same rights and remedies in relation thereto as provided in RSA 76:13 and RSA 80. Prior to holding a tax sale or executing a priority tax lien under RSA 80:59, the collector shall, at least 30 days prior to such tax sale or tax lien execution, send notice by certified or registered mail, to the last known post office address of the current owner, if known, or to the last known address of the deceased taxpayer, and to all mortgagees from whom permission has been sought pursuant to paragraph III of this section. Any person with a legal interest in the property may redeem it, either prior to the tax sale or tax lien execution, or subsequently as set forth in RSA 80:32 or RSA 80:69.

IV-a. When the owner of a property subject to a tax deferral sells or otherwise conveys the property, the owner or grantee shall pay in full the deferred taxes plus any interest due and the municipality shall provide recorded written release or satisfaction of the notice of tax deferral. If the owner or grantee, who shall be deemed to have notice of and shall take title to the property subject to the notice of tax deferral, does not pay the accrued amount on the property within 9 months of the date of sale or conveyance of the property, the municipality may commit the accrued amount of the deferral to the collector of taxes with a warrant signed by the assessing officials requiring him or her to collect it; and the collector of taxes shall have the same rights and remedies in relation thereto as provided in RSA 76:13 and RSA 80. Prior to holding a tax sale or executing a priority tax lien under RSA 80:59, the collector shall, at least 30 days prior to such tax sale or tax lien execution, send notice by certified or registered mail, to the last known post office address of the current owner, if known, or to the last known address of the taxpayer who received the deferral, and to all mortgagees from whom permission has been sought pursuant to paragraph III of this section. Any person with a legal interest in the property may redeem it, either prior to the tax sale or tax lien execution, or subsequently as set forth in RSA 80:32 or RSA 80:69.

V. The assessing officials shall file notice of each tax deferral granted, within 30 days, with the registry of deeds of the county in which the property is located to perfect it.

VI. When a taxpayer appeals the denial of a deferral application to the superior court or board of tax and land appeals, the court or board may reverse or affirm, wholly or partly, or may modify the decision brought up for review when there is an error of law or when the court or board is persuaded by the balance of probabilities, on the evidence before it, that said decision is unreasonable.

Source. 1973, 452:1. 1975, 214:1. 1977, 54:1; 591:1-3. 1981, 374:1. 1983, 155:3. 1994, 390:1. 1995, 265:7. 1997, 37:1. 2003, 299:12, eff. April 1, 2003; 299:13, eff. April 1, 2005. 2013, 141:1, eff. Jan. 1, 2014.