

HOUSE BILL 1926

By Rogers

AN ACT to amend Tennessee Code Annotated, Title 13,
Chapter 23 and Title 67, relative to property taxes.

WHEREAS, the legislature finds that certain older individuals who have resided in their homes for a substantial periods of time have found it difficult to remain in their own homes because their incomes are insufficient to cover property taxes, which have risen as the values of their homes have increased; and

WHEREAS, the legislature finds that it is in the public interest and that it serves a statewide public purpose to create a program whereby lien-creating loans are made to elderly homeowners for the purpose, and only for the purpose, of enabling individuals to pay local property taxes on their homes so that more of these individuals can remain in their homes; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 13, Chapter 23, is amended by adding the following language as a new part:

13-23-601. As used in this part:

- (1) "Agency" means the Tennessee housing development agency created in part 1 of this chapter;
- (2) "Co-owner" means the participant's spouse who at the time of the initial application has an ownership interest in the qualifying dwelling unit;
- (3) "Executive director" means the executive director of the Tennessee housing development agency;

(4) "Free and clear" means that rights to transfer full title to the qualifying dwelling unit after satisfaction of permitted obligations are vested in the participant and the co-owner;

(5) "Mobile home" means any movable structure and appurtenance that is attached to real property by virtue of being on a foundation, or being underpinned, or connected with any one (1) utility service, such as electricity, natural gas, water, or telephone and that is valued pursuant to § 67-5-802;

(6) "Participant" means a person sixty-two (62) years of age or older or any person who is totally and permanently disabled and whose application for a loan has been approved by the agency;;

(7)

(A) "Permitted obligations" mean obligations, including, mortgages and such other obligations as specified by the agency, on the qualifying dwelling unit that together do not exceed in amount a total amount established in the agency's rules and regulations adopted pursuant to this part.

(B) "Permitted obligation" does not include a loan under this part;

(8) "Persons and families of lower and moderate income" has the same meaning as in § 13-23-103;

(9) "Program" means the loan program created under this part; and

(10) "Qualifying dwelling unit" means a dwelling unit, not including a mobile home, located in this state, habitable as a permanent residence and on which property taxes are levied pursuant to title 67, chapter 5. "Qualifying dwelling unit" includes a unit in a condominium, a cooperative, an unincorporated cooperative association or a multi-unit dwelling with four (4) or fewer units. 13-23-602.

(a) The agency is authorized and has the power to make loans for the payment of property taxes to persons of low or moderate income meeting all requirements of the program. The loans shall be registered with the register of deeds and shall be secured by a lien on the property that shall be secondary to any lien arising from a permitted obligation that was recorded at the time the loan was made.

(b) The agency shall set a total amount of permitted obligations on the qualifying dwelling unit that does not exceed thirty-five percent (35%) of the value of the dwelling unit as determined by the most recent assessment for property tax purposes.

(c) In the case of a qualified dwelling unit that is a unit in a condominium, a cooperative, an unincorporated cooperative association or a multi-unit dwelling with four (4) or fewer units, only the portion of taxes allocable to the unit inhabited by the participant may qualify for loans under the program.

13-23-603. The agency shall make a loan to a participant who meets the following requirements:

(1) The participant applies on forms prescribed by the agency for a loan to pay property taxes or special assessments by January 15 of the year in which the property taxes shall become delinquent, unless an earlier date for applications is set by the agency. The names of the participant and the co-owner, if there is a co-owner, shall be included on the application form. The co-owner shall sign the application showing the co-owner's agreement with the application for the loan. The loan shall be made to the participant, and, if there is a co-owner, the co-owner shall co-sign the loan;

(2) The participant owns the real property or the participant and the co-owner own the real property free and clear. No person other than the participant's spouse shall have any ownership interest in the property and there must be no obligations on the property other than permitted obligations and the loan under the program;

(3) The participant has resided in the qualifying dwelling unit for more than five (5) years preceding the initial year of participation and the participant continues to reside in the property as the participant's primary place of residence;

(4) The participant keeps continuously in effect, during the period that a loan is outstanding under this part, a fire and extended casualty insurance policy on the qualifying dwelling unit that is satisfactory to the agency and that permits the agency to be named on the policy as a lienholder. If the qualifying dwelling unit is in a floodplain, then the participant shall also keep continuously in effect, during the period that a loan is outstanding under this part, flood insurance that is satisfactory to the agency and that permits the agency to be named on the policy as a lienholder;

(5) In the year prior to the year in which the taxes, for which the participant seeks a loan to pay, are levied, the incomes of the participant or the participant and the co-owner, as applicable, are not greater than those established for individuals or families of two (2) persons, as applicable, pursuant to § 13-23-103(15); and

(6) The participant agrees to pay any application fees assessed by the agency and all recording fees for the recordation of the loan and the lien.

13-23-604.

(a) The agency shall enter into agreements with participants, or participants and co-owners who shall co-sign the loan, to loan funds to pay property taxes on participants' qualifying dwelling units. The maximum loan under this part in the first year in which a loan is made is limited to the amount obtained by adding the property taxes levied on the qualifying dwelling unit for the tax year for which the loan is made and the delinquent taxes owed on the property together with interest and penalty on the delinquent taxes. The maximum loan under this part in any subsequent year in which a loan is made is limited to the amount the property taxes levied on the qualifying dwelling unit for the tax year for which the loan is made.

(b) Loans shall bear interest at a rate not greater than ten percent (10%). The executive director of the agency shall set the rate no later than October 15 for loans to be made for the next tax year.

(c) The agency shall have all powers under this part that are necessary or convenient to the operation of a loan program, including, but not limited to, the power to enter into contracts, to pay or be paid for the performance of services, to exercise all rights of a lienholder under state law and to perform other administrative actions that are necessary in the performance of its duties under this part.

(d) The agency shall adopt rules and establish procedures under which:

- (1) Applications for loans shall be submitted, reviewed and approved;
- (2) Loans become due and payable;
- (3) Disputes and claims may be settled; and
- (4) Records are maintained.

(e) The agency shall enter into loan agreements with participants, or participants and co-owners who co-sign the loan, who agree to all of the following:

(1) That the loan shall be due and payable upon the occurrence of any of the following events:

(A) Transfer of the qualifying dwelling unit by any means except upon transfer to a co-owner who resides in the unit and who is a co-signer of the loan or who is permitted by the agency to assume the participant's obligation for repayment of the loan;

(B) Death of the participant if the participant is the sole owner;

(C) Death of the co-owner, following the death of the participant, if the co-owner co-signed the loan or assumed responsibility for repayment of the loan;

(D) Discovery by the agency that a participant or co-owner has made a false statement on the application or otherwise in respect to the program;

(E) Condemnation or involuntary conversion of the qualifying dwelling unit;

(F) The participant and co-owner's income exceed the amount set for income eligibility by the agency under § 13-23-603(5); or

(G) The participant ceases to comply with the § 13-23-603(4);

(2) To pay, upon repayment of the loan, interest specified in the loan agreement; and

(3) To limit the outstanding obligations on the qualifying dwelling unit to no more than the permitted obligations.

(f) If a participant, or the participant and co-owner, as applicable, ceases to meet the income eligibility requirements for the loan, the agency, rather than demanding repayment under subdivision (e)(1)(F), may allow the participant to continue in the program but be ineligible for additional loans, or may require partial payment. The agency may also allow a co-owner who was not a co-signer of the loan to be added to the loan agreement if, in the judgment of the executive director, the addition of the co-owner does not significantly increase the agency's exposure to risk under the loan agreement.

(g) At any time after an application is filed, the agency may verify the correctness of the application and any other information regarding the eligibility of the participant. If the agency finds that at the time a participant received a loan the participant was not eligible under the program, the agency shall notify the participant and may require repayment of the loan as determined by the agency.

(h) The agency, its agents or representatives may examine the books and records of an applicant under this part or other sources of information bearing on the application to verify the information provided by an applicant. The agency may require the production of books, records and memoranda and may require testimony and proof relevant to its investigation. If a person fails to furnish information requested by the agency to verify the correctness of the application, the agency may reject the application.

(i) If the property taxes are paid, using a loan made under the program, after the taxes or assessments are due, the participant shall be liable for interest and penalty charges subject to the statutory penalties imposed on delinquent taxes.

13-23-605. If a participant ceases to reside in the qualifying dwelling unit, unless the participant is admitted and resides in a nursing home or other medical facility, or ceases to be an owner of the qualifying dwelling unit, then, a co-owner, who was not a co-signer of the loan, may assume responsibility for the participant's loans by applying to the agency; provided, that the co-owner resides in the qualified dwelling unit. A co-owner who resides in the qualified dwelling unit and who is sixty-two (62) years of age or older or who is totally and permanently disabled at the time of assumption of responsibility for the participant's loans may qualify as a participant in the program, if all other requirements are met.

13-23-606. The maximum amount for all loans by the agency pursuant to the program shall not exceed two hundred fifty thousand dollars (\$250,000) per year.

Participants shall be granted loans on a first come, first served basis.

SECTION 2. The agency is authorized to promulgate rules to effectuate the purposes of this act. All such rules shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.