

No. 1996-91

AN ACT

HB 2223

Implementing the provisions of section 2(b)(ii) of Article VIII of the Constitution of Pennsylvania by authorizing cities of the first class to provide for special tax provisions relating to real property taxes for certain persons who meet the established standards and qualifications for age and poverty.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Construction.

This act shall be construed to authorize the governing bodies of cities of the first class to provide by ordinance for the implementation of the special tax provisions contained in this act which allow for the refund or forgiveness of real property tax liability of certain low-income senior citizens attributable to real property tax rate increases and increases in the assessed value of the low-income senior citizen's homestead, thereby implementing section 2(b)(ii) of Article VIII of the Constitution of Pennsylvania.

Section 2. Declaration of policy.

(1) In recognition of the powers contained in section 2(b)(ii) of Article VIII of the Constitution of Pennsylvania which provides therein for the establishing as a class or classes of subjects of taxation the property or privileges of persons who, because of poverty or age, are determined to be in need of special tax provisions, it is the legislative intent and purpose of this act to implement the powers under such constitutional provision by establishing special tax provisions for a class of persons within cities of the first class as provided in this act.

(2) Having determined that there are persons within cities of the first class of this Commonwealth whose incomes are such that the governing bodies of cities of the first class may decide that the imposition of the full amount of real estate taxes on these persons deprives them and their dependents of the bare necessities of life and having further determined that poverty is a relative concept inextricably joined with actual income, the number of persons dependent upon such income and the unlikelihood of a taxpayer being able by reason of age to increase that income, it is deemed to be a matter of public policy to provide special tax provisions for that class of persons designated in this act within cities of the first class to enable governing bodies of cities of the first class to by ordinance relieve their economic burden.

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Dependent.” A child who derives more than one-half of the child’s total support during the entire taxable year from a taxpayer eligible for the special tax provisions of this act. Any person who is a dependent pursuant to the provisions of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.) during a taxable year shall prima facie be deemed a dependent for the purpose of this act.

“Homestead.” A dwelling used as a home, occupied by a taxpayer as a primary residence. The term includes, but is not limited to, mobile homes which are assessed as realty for local property tax purposes and the land upon which the mobile home is situated and other similar living accommodations as well as a part of a multidwelling or multipurpose building and a part of the land upon which it is built to the extent that the eligible taxpayer is chargeable by a city of the first class for property taxes. The term also includes, but is not limited to, premises occupied by an eligible taxpayer if he is required by law to pay a property tax by reason of his ownership or rental of, including a possessory interest in, the dwelling, the land or both. The term “by law” shall not be deemed to include a contractual obligation between the eligible taxpayer and a person who would otherwise be responsible to a city of the first class for the payment of the tax. An owner includes a person in possession under contract of sale, deed of trust, life estate, joint tenancy or tenancy in common.

“Income.” All income from whatever source derived, including, but not limited to, salaries, wages, bonuses, commissions, income from self-employment, alimony, support money, cash public assistance and relief, the net amount of any pensions or annuities, including railroad retirement benefits, all benefits received under the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.), except Medicare benefits, all benefits received under State employment insurance laws and veterans’ disability payments, all interest received from the Federal or any state government, or any instrumentality or political subdivision thereof, realized capital gains, net income from rentals, workers’ compensation and the gross amount of loss of time insurance benefits, life insurance benefits and proceeds, except the first \$10,000 of the total of death benefit payment, and gifts of cash or property, other than transfers by gift between members of a household, in excess of a total value of \$500, but shall not include surplus food or other relief in kind supplied by a governmental agency or property tax rebate.

“Low-income taxpayer.” A taxpayer whose income does not exceed the maximum annual income allowable for an eligible claimant to participate in the Commonwealth’s program for pharmaceutical assistance for the elderly, pursuant to the act of August 14, 1991 (P.L.342, No.36), known as the Lottery Fund Preservation Act.

“Poverty.” An economic condition wherein the total amount of household income is insufficient to adequately provide the taxpayer, the taxpayer’s spouse and dependent children with the necessities of life. For the purpose of determining eligibility for the tax exemptions and special tax provisions of this act, a taxpayer is deemed to be living at the poverty level if the taxpayer meets the low-income provisions defined under this act.

“Real estate taxes.” All taxes on a homestead imposed or authorized to be imposed for cities of the first class and school districts of the first class.

“Senior citizen.” A taxpayer who is 65 years of age or older or whose spouse, if a member of the household, is 65 years of age or older during a calendar year in which real property taxes are due and payable or was a widow or widower of someone who was 65 years of age or older and was 50 years of age or older during a calendar year or part thereof in which real estate taxes were due and payable. The term “widow” or “widower” shall mean the surviving wife or the surviving husband, as the case may be, of a deceased individual who has not remarried.

“Special tax provision.” The standards and qualifications provided under this act to establish the eligibility for and the refund or forgiveness of a portion of the taxpayer’s real estate tax liability.

Section 4. Special tax provisions; refund or forgiveness of real estate taxes.

(a) General rule.—Any taxpayer within a city of the first class who meets the standards and qualifications established by this act shall be deemed a separate class of subjects of taxation, and, as such, each governing body of a city of the first class may by ordinance provide that such taxpayers shall be entitled to the benefit of the special tax provisions of this act.

(b) Refund or forgiveness of real estate taxes.—Pursuant to the provisions of such ordinance, eligible taxpayers shall be entitled to a refund or forgiveness which have been paid over to or would, except for the provisions of this act, be payable to cities of the first class and school districts of the first class for real estate taxes authorized or imposed for city and school district purposes in accordance with the following provisions:

(1) Low-income senior citizens taxpayers shall be entitled to receive refunds or forgiveness of that part of their real estate tax liability attributable to any real estate tax rate increase or an increase in the assessed value of the taxpayer’s homestead occurring after the effective date of any ordinance implementing this act.

(2) In the event that a taxpayer who had previously been eligible to receive refunds or forgiveness of taxes as authorized by this act is no longer eligible by reason of failing to meet the low-income requirement provided under this act, the taxpayer shall be billed and shall pay real estate taxes at the then current real estate tax rate and assessed value. If for subsequent tax years a taxpayer reestablishes eligibility for refunds or forgiveness of real estate taxes by again meeting the low-income requirements provided under this act, the amount of real estate taxes that the taxpayer is eligible to have refunded or forgiven is that part of their

real estate tax liability attributable to any real estate tax rate increase or an increase in the assessed value of the taxpayer's homestead occurring no earlier than the calendar year prior to the tax year for which the taxpayer reestablishes eligibility.

(3) The maximum amount of real estate taxes which may be refunded or forgiven may be limited by ordinance.

(4) If a homestead is owned for only a portion of a year or is owned in part by a person who is not a low-income taxpayer, the tax collector shall apportion the real estate taxes in accordance with the period or portion of ownership of the eligible taxpayer in determining the amount of refund or forgiveness for which a taxpayer is eligible.

Section 5. Application; proof of claim.

(a) Application.—Any person desiring to take advantage of the special tax provisions pursuant to ordinance adopted under this act shall notify each city of the first class granting the special tax provisions in writing on a form provided by it submitted at the time provided in the ordinance or regulation. Only one taxpayer for each homestead shall be entitled to the real estate tax refund or forgiveness of taxes. If two or more persons residing at any homestead meet the qualification for a real estate tax refund or forgiveness of taxes, they may determine among themselves who shall receive the refund or forgiveness of taxes. If they are unable to agree, each city of the first class shall determine to whom the refund or forgiveness of taxes is to apply.

(b) Proof of claim.—Each application shall include reasonable proof of household income, the location and nature of the property claimed as a homestead and the tax bill or receipt for the real estate taxes owed or paid in connection with the occupancy of the homestead. It shall not be necessary that real estate taxes are paid directly by the taxpayer. The first application filed shall include proof that the taxpayer or the taxpayer's spouse is or will be 65 years of age or older during the calendar year in which real estate taxes are due and payable.

Section 6. Administration and enforcement.

Each city of the first class shall provide by ordinance, rule or regulation for the administration and enforcement of any ordinance adopted pursuant to this act as is provided by law.

Section 7. Effective date.

This act shall take effect immediately.

APPROVED—The 2nd day of July, A.D. 1996.

THOMAS J. RIDGE