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TO: All County Commissioners and Treasurers
Through: Shelley Wilson, Executive Administrator, Tax Equalization Division
FROM: Edward C. Samsel, Legal Counsel for the Tax Equalization Division
RE: The Property Tax Payment Linked Deposit Program for Homesteads
DATE: May 9, 2007

Introduction

Substitute House Bill No. 293 (HB 293), effective March 30, 2007, establishes the property tax payment linked deposit program (Program) to assist senior citizens and the permanently and totally disabled in paying taxes on their homesteads. To accomplish that goal, Revised Code (R.C.) section 135.353 was amended, and R.C. sections 135.804, 135.805, 135.806, and 135.807 were enacted to provide a source of low-cost funds for lending purposes to assist the eligible borrowers to pay the property taxes on their homesteads.

Definitions – R.C. § 135.804

- A. “Eligible borrower” is a person who (1) owns a homestead that is not charged with more than two years worth of certified delinquent taxes; (2) has total income that is the lesser of \$50,000 or the amount set by the county commissioners; and (3) meets all the other eligibility requirements established by the county commissioners under R.C. § 135.805.
- B. “Eligible lending institution” means a financial institution that (1) is eligible to make loans to individuals that are secured by mortgages, including mortgages commonly known as reverse mortgages; (2) has an office located within the territorial limits of the county; (3) is an eligible public depository under R.C. § 135.32 into which the county’s investing authority may deposit the public moneys of the county; and (4) has entered into an agreement under R.C. § 135.805(B)(4) with the investing authority of the county (county treasurer – R.C. § 135.31) to participate in the property tax payment linked deposit program.
- C. “Homestead,” “housing cooperative,” “old age and survivors social security and railroad retirement benefits,” “permanently and totally disabled,” “sixty-five years of age or older,” and “total income” are defined here as they are in the Chapter 323 statutes for the aged and disabled homestead exemption, as those statutes existed on the effective date of HB 293.

Linked Deposit Program Requirements – R.C. § 135.805

- A. A board of county commissioners may establish the Program in their county, by resolution, to benefit persons who are sixty-five years of age or older, or persons who are permanently and totally disabled, or both groups of persons. The Program shall authorize the investing authority to place certificates of deposit at up to 3% below market rates with an eligible lending institution, provided that the eligible lending institution agrees to lend the value of such deposit to eligible borrowers at up to 3% below the present borrowing rate applicable to each eligible borrower.
- B. The commissioners’ resolution shall include the requirements, parameters, and limitations necessary to carry out the Program, including, but not limited to, all the following: (1) eligibility requirements for borrowers who may receive reduced rate loans under the Program, including the total income limit for an eligible borrower and the indebtedness limit

that a borrower may not exceed to be eligible for such loan, under which the sum of all recorded liens on the homestead plus the amount of the reduced rate loan cannot exceed 80% of the homestead's true value, as most recently determined by the county auditor; (2) application procedures for eligible borrowers and eligible lending institutions; (3) review procedures for applications and criteria for acceptance or rejection of applications for reduced rate loans; (4) necessary agreements between the eligible lending institution and the county treasurer, including procedures for payment directly to the county treasurer by the eligible lending institution of the property taxes due on the homestead and the delivery by the county treasurer to the eligible lending institution of the lien certificate; and (5) annual reports regarding the operation of the Program made by the county treasurer to the board of county commissioners.

- C. The county commissioners may appropriate funds to defray some or all the closing costs and expenses of reduced rate loans made by eligible lending institutions to eligible borrowers.
- D. The county, its investing authority, and the board of county commissioners are not liable to any eligible lending institution in any manner for the payment of the principal or interest on any reduced rate loan made under the Program. Any delay in payment or default on the part of the borrower does not in any manner affect the deposit agreement between the eligible lending institution and the investing authority or board of county commissioners.

Eligible Lending Institution Duties – R.C. § 135.806

Upon placement of a certificate of deposit with an eligible lending institution, under a § 135.805 agreement, the eligible lending institution shall (1) lend funds pursuant to the agreement to an eligible borrower; and (2) comply fully with the requirements of R.C. §§ 135.804 to 135.807.

Lien Certificate – R.C. § 135.807

- A. The Program shall provide for the delivery of a lien certificate to an eligible lending institution making payment to the county treasurer, pursuant to a loan agreement between the eligible lending institution and eligible borrower, of some or all the taxes then due on the homestead of the eligible borrower.
- B. The Tax Commissioner shall prescribe the form for the lien certificate, which shall include identity of the homestead, the eligible borrower, the eligible lending institution, the amount of taxes paid by the eligible lending institution, and the tax year for which the taxes were paid. The Commissioner shall distribute the forms to the county treasurers of all counties in which a Program is established.
- C. Before the lien certificate form is prescribed and distributed by the Tax Commissioner, the county treasurer shall prepare the form, which must contain the information listed in the preceding paragraph plus the following sentence: "This lien certificate is delivered pursuant to section 135.807 of the Revised Code and vests in the eligible lending institution the first lien held previously by the state and its taxing districts for the amount of taxes paid by the eligible lending institution, together with any and all unpaid interest thereon."
- D. The delivery of the lien certificate vests in the eligible lending institution the first lien held previously by the state and its taxing districts for the amount of taxes paid by the eligible lending institution, together with any unpaid interest thereon from the date of delivery at the interest rate specified in the loan agreement between the eligible lending institution and the eligible borrower. The lien is superior to any subsequent tax liens.
- E. Except for other real property tax liens, the lien certificate is superior to all other liens and encumbrances upon the homestead described in the lien certificate, and the lien continues in full force and effect until the amount of all taxes paid by the eligible lending institution, together with any unpaid interest thereon, has been repaid to the eligible lending institution. With respect to the priority among real property tax liens, the priority is determined by the

date the liens attached pursuant to R.C. § 323.11, with the first priority going to the earliest attached lien and each immediately subsequent priority based upon the next earliest attached lien.

- F. The eligible lending institution may record the lien certificate, or a memorandum thereof, as a mortgage on the land in the county recorder's office of the county in which the homestead is located. The county recorder shall record the certificate in the records of mortgages under R.C. § 371.08(B) and shall index the certificate in the indexes under R.C. § 317.18. When the lien is cancelled, the cancellation shall also be recorded by the county recorder. When a loan is repaid in full, the eligible lending institution shall promptly record the full payment and cancel or otherwise release the lien. On repayment of the loan in full, the lien certificate shall be null and void.