

PROPERTY TAX ABATEMENT OR DEFERRAL

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Dennis E. Stowell

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Property Tax Act to amend the provisions relating to the abatement or deferral of certain property taxes.

Highlighted Provisions:

This bill:

- ▶ modifies the provisions relating to the abatement or deferral of property taxes for the poor;
- ▶ provides that certain property may not be subjected to a tax sale during the period of deferral if a county grants a deferral;
- ▶ eliminates the requirement that a deferral applicant obtain approval from the applicant's mortgage lender before a county may grant a deferral;
- ▶ defines terms;
- ▶ requires a county to grant a deferral of a certain portion of a claimant's residential property taxes for certain individuals 65 years of age or older or an unmarried surviving spouse; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2008.



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **59-2-1107**, as last amended by Chapters 221 and 310, Laws of Utah 2001

31 **59-2-1108**, as last amended by Chapter 143, Laws of Utah 2003

32 **59-2-1109**, as last amended by Chapter 229, Laws of Utah 2003

33 ENACTS:

34 **59-2-1108.5**, Utah Code Annotated 1953



36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **59-2-1107** is amended to read:

38 **59-2-1107. Poor persons -- Amount of abatement.**

39 ~~[The]~~ (1) A county may remit or abate the taxes of [any] a poor person meeting the
40 requirements of Section 59-2-1109 in an amount not exceeding the lesser of:

41 ~~[(+)]~~ (a) the amount provided as a homeowner's credit for the lowest household income
42 bracket under Section 59-2-1208; or

43 ~~[(2)]~~ (b) 50% of the total tax levied for the current year.

44 (2) (a) For purposes of this Subsection (2):

45 (i) "Property taxes due" means the taxes due on a person's property:

46 (A) for which an abatement is granted by a county under this section; and

47 (B) for the calendar year for which the abatement is granted.

48 (ii) "Property taxes paid" is an amount equal to the sum of:

49 (A) the amount of the property taxes the person paid for the taxable year for which the
50 person is applying for the abatement; and

51 (B) the amount of the abatement the county grants under this section.

52 (b) A county granting an abatement to a person under this section shall issue a refund
53 to that person as described in Subsection (2)(c), if the difference described in Subsection (2)(c)
54 is \$1 or more.

55 (c) The refund amount is equal to the property taxes paid minus the property taxes due.

56 Section 2. Section **59-2-1108** is amended to read:

57 **59-2-1108. Poor persons -- Deferral of taxes -- Interest rate -- Treatment of**
58 **deferred taxes.**

59 (1) (a) ~~[The]~~ A county may, after giving notice, defer any tax levied on the residential
 60 property~~[-, subject to the conditions]~~ of a poor person meeting the requirements of Section
 61 59-2-1109.

62 (b) A deferral may be granted by a county at any time if the applicant is not the owner
 63 of income producing assets that could be liquidated to pay the tax.

64 (c) Any assets transferred to relatives in the prior three-year period shall be considered
 65 by a county in making the county's determination as to whether to grant a deferral under this
 66 section.

67 ~~[(b)]~~ (2) If the ~~[owner of the property described in Subsection (1)(a) is poor]~~ county
 68 grants a deferral described in Subsection (1)(a), the property may not be subjected to a tax sale
 69 during the period of ~~[deferral]~~ deferral.

70 ~~[(2)]~~ (3) (a) (i) Taxes deferred by the county accumulate with interest, as provided in
 71 Subsection (3)(b), as a lien against the property until the property is sold ~~[or otherwise disposed~~
 72 ~~of]~~.

73 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for
 74 purposes of this section, the commission shall broadly define the term "sold" and include in its
 75 definition instances where no legal transfer of title occurs.

76 (b) Deferred taxes under this section:

77 (i) bear interest at an interest rate equal to the lesser of:

78 (A) 6%; or

79 (B) the targeted federal funds rate:

80 (I) as defined in 12 C.F.R. Sec. 201.2; and

81 (II) that exists on the January 1 immediately preceding the day on which the taxes are
 82 deferred; and

83 (ii) have the same status as a lien under Sections 59-2-1301 and 59-2-1325.

84 ~~[(3) Deferral may be granted by the county at any time if: (a) the holder of any~~
 85 ~~mortgage or trust deed outstanding on the property gives written approval of the application;~~
 86 ~~and (b) the applicant is not the owner of income producing assets that could be liquidated to~~
 87 ~~pay the tax.]~~

88 ~~[(4) Any assets transferred to relatives in the prior three-year period shall be considered~~
 89 ~~by the county in making the county's determination.]~~

90 Section 3. Section **59-2-1108.5** is enacted to read:

91 **59-2-1108.5. Deferral of taxes -- Interest rate -- Treatment of deferred taxes.**

92 (1) For purposes of this section:

93 (a) "Claimant" means:

94 (i) an owner of qualifying residential property:

95 (A) regardless of income; and

96 (B) who:

97 (I) files an application in accordance with Section 59-2-1109;

98 (II) is 65 years of age or older on or before the date on which an application for deferral
99 described in Subsection (1)(a)(i)(B)(I) is filed;

100 (III) owes a property tax on the qualifying residential property; and

101 (IV) resides for not less than ten months of each year in the qualifying residential
102 property;

103 (ii) a grantor of a trust:

104 (A) regardless of income; and

105 (B) holding title to qualifying residential property:

106 (I) who files an application in accordance with Section 59-2-1109;

107 (II) who is 65 years of age or older on or before the date on which an application for
108 deferral described in Subsection (1)(a)(ii)(B)(I) is filed;

109 (III) if a property tax is owed on the qualifying residential property; and

110 (IV) who resides for not less than ten months of each year in the qualifying residential
111 property; or

112 (iii) the unmarried surviving spouse of an owner described in Subsection (1)(a)(i) or a
113 grantor described in Subsection (1)(a)(ii) of qualifying residential property if:

114 (A) the unmarried surviving spouse, regardless of age, files an application in
115 accordance with Section 59-2-1109;

116 (B) a property tax is owed on the qualifying residential property;

117 (C) the unmarried surviving spouse resides for not less than ten months of each year in
118 the qualifying residential property; and

119 (D) the deceased spouse previously obtained a deferral:

120 (I) in accordance with this section; and

121 (II) for the qualifying residential property described in (1)(a)(iii)(B).
122 (b) (i) "Qualifying amount of property tax" means for a claimant for any calendar year,
123 an amount equal to the difference between:
124 (A) an amount equal to the difference between:
125 (I) the amount of property taxes levied on the claimant's qualifying residential property
126 for that calendar year; and
127 (II) any other abatement or deferral granted under this chapter to the claimant for the
128 claimant's qualifying residential property for that calendar year; and
129 (B) the amount of property taxes:
130 (I) levied on the claimant's qualifying residential property during the qualifying year if
131 the qualifying residential property was a primary residence during the qualifying year; or
132 (II) that would have been levied had the qualifying residential property been a primary
133 residence during the qualifying year if the qualifying residential property was not a primary
134 residence during the qualifying year.
135 (ii) For purposes of determining the qualifying amount of property tax described in
136 Subsection (1)(b)(i), the claimant does not have to have owned the qualifying residential
137 property during the qualifying year.
138 (c) "Qualifying residential property" means residential property:
139 (i) as defined in Section 59-2-102;
140 (ii) that is single-family residential property; and
141 (iii) owned by a claimant.
142 (d) "Qualifying year" means:
143 (i) the calendar year prior to the calendar year in which the claimant first applies for
144 and is granted a deferral in accordance with this section for the qualifying residential property;
145 or
146 (ii) if the claimant is the unmarried surviving spouse of an owner described in
147 Subsection (1)(a)(i) or a grantor described in Subsection (1)(a)(ii), the calendar year prior to the
148 calendar year in which the owner or grantor first applies for and is granted a deferral in
149 accordance with this section for the qualifying residential property.
150 (2) A county shall grant a deferral of a claimant's qualifying amount of property tax for
151 the claimant's qualifying residential property if the claimant files an application in accordance

152 with Section 59-2-1109.

153 (3) (a) (i) Taxes deferred by a county under this section accumulate with interest as a
 154 lien against a claimant's qualifying residential property until the qualifying residential property
 155 is sold.

156 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for
 157 purposes of this section, the commission shall broadly define the term "sold" and include in its
 158 definition instances where no legal transfer of title occurs.

159 (b) Deferred taxes under this section:

160 (i) bear interest at an interest rate equal to the lesser of:

161 (A) 6%; or

162 (B) the targeted federal funds rate:

163 (I) as defined in 12 C.F.R. Sec. 201.2; and

164 (II) that exists on the January 1 immediately preceding the day on which the taxes are
 165 deferred; and

166 (ii) have the same status as a lien under Sections 59-2-1301 and 59-2-1325.

167 (4) If a county grants a deferral in accordance with this section, the qualifying
 168 residential property may not be subjected to a tax sale during the period of deferral for the
 169 qualifying amount of the property tax deferred.

170 Section 4. Section **59-2-1109** is amended to read:

171 **59-2-1109. Deferral or abatement -- Application -- Definition of indigent persons.**

172 ~~[(1) A person under the age of 65 years is not eligible for a deferral or abatement~~
 173 ~~provided for poor people under Sections 59-2-1107 and 59-2-1108 unless:]~~

174 ~~[(a) the county finds that extreme hardship would prevail if the grants were not made;~~
 175 ~~or]~~

176 ~~[(b) the person is disabled:]~~

177 ~~[(2)]~~ (1) (a) An application for ~~[the deferral or]~~ an abatement under Section 59-2-1107
 178 or a deferral under Section 59-2-1108 or 59-2-1108.5 shall be filed on or before September 1
 179 with the county in which the property is located.

180 (b) The application shall include a signed statement setting forth ~~[the]~~ eligibility ~~[of the~~
 181 ~~applicant]~~ for the ~~[deferral or]~~ abatement or deferral.

182 (c) Both husband and wife shall sign the application if the husband ~~[and]~~ or wife seek a

183 deferral or abatement on a residence:

184 (i) in which they both reside; and

185 (ii) which they own as joint tenants.

186 (d) A county may extend the deadline for filing under Subsection ~~[(2)]~~ (1)(a) until

187 December 31 if the county finds that good cause exists to extend the deadline.

188 ~~[(3)(a) For purposes of this Subsection (3):]~~

189 ~~[(i) "Property taxes due" means the taxes due on a person's property:]~~

190 ~~[(A) for which an abatement is granted by a county under Section 59-2-1107; and]~~

191 ~~[(B) for the calendar year for which the abatement is granted:]~~

192 ~~[(ii) "Property taxes paid" is an amount equal to the sum of:]~~

193 ~~[(A) the amount of the property taxes the person paid for the taxable year for which the~~
194 ~~person is applying for the abatement; and]~~

195 ~~[(B) the amount of the abatement the county grants under Section 59-2-1107.]~~

196 ~~[(b) A county granting an abatement to a person under Section 59-2-1107 shall refund~~
197 ~~to that person an amount equal to the amount by which the person's property taxes paid exceed~~
198 ~~the person's property taxes due, if that amount is \$1 or more.]~~

199 (2) If the claimant is the grantor of a trust holding title to real or tangible personal
200 property on which an abatement or deferral is claimed, the claimant may claim the portion of
201 the abatement or deferral under Section 59-2-1107, 59-2-1108, or 59-2-1108.5 and be treated
202 as the owner of that portion of the property held in trust for which the claimant proves to the
203 satisfaction of the county that:

204 (a) title to the portion of the trust will revert in the claimant upon the exercise of a
205 power:

206 (i) by:

207 (A) the claimant as grantor of the trust;

208 (B) a nonadverse party; or

209 (C) both the claimant and a nonadverse party; and

210 (ii) regardless of whether the power is a power:

211 (A) to revoke;

212 (B) to terminate;

213 (C) to alter;

214 (D) to amend; or
 215 (E) to appoint;
 216 (b) the claimant is obligated to pay the taxes on that portion of the trust property
 217 beginning January 1 of the year the claimant claims the abatement or deferral; and
 218 (c) the claimant meets the requirements under Section 59-2-1107, 59-2-1108, or
 219 59-2-1108.5 for the abatement or deferral.
 220 (3) A person under the age of 65 years is not eligible for an abatement under Section
 221 59-2-1107 or a deferral under Section 59-2-1108 unless:
 222 (a) the county finds that extreme hardship would prevail if the grants were not made; or
 223 (b) the person is disabled.
 224 (4) (a) For purposes of [this section] Sections 59-2-1107 and 59-2-1108 and this
 225 Subsection (4):
 226 [(a) a poor person is any person:]
 227 (i) "Poor person" means a person:
 228 [(i)] (A) whose total household income as defined in Section 59-2-1202 is less than the
 229 maximum household income [certified to] for which a homeowner's credit is allowed under
 230 Subsection 59-2-1208(1);
 231 [(i)] (B) who resides for not less than ten months of each year in the residence for
 232 which the [tax relief, deferral, or] abatement or deferral is requested; and
 233 [(iii)] (C) who is unable to meet the tax assessed on the person's residential property as
 234 the tax becomes due[; and].
 235 [(b)] (ii) "Residence" includes a mobile home as defined under Section 70D-1-19.
 236 [(5) If the claimant is the grantor of a trust holding title to real or tangible personal
 237 property on which an abatement or deferral is claimed, the claimant may claim the portion of
 238 the abatement or deferral under Section 59-2-1107 or 59-2-1108 and be treated as the owner of
 239 that portion of the property held in trust for which the claimant proves to the satisfaction of the
 240 county that:]
 241 [(a) title to the portion of the trust will revert in the claimant upon the exercise of a
 242 power:]
 243 [(i) by:]
 244 [(A) the claimant as grantor of the trust;]

245 ~~[(B) a nonadverse party; or]~~
 246 ~~[(C) both the claimant and a nonadverse party; and]~~
 247 ~~[(ii) regardless of whether the power is a power:]~~
 248 ~~[(A) to revoke;]~~
 249 ~~[(B) to terminate;]~~
 250 ~~[(C) to alter;]~~
 251 ~~[(D) to amend; or]~~
 252 ~~[(E) to appoint;]~~
 253 ~~[(b) the claimant is obligated to pay the taxes on that portion of the trust property~~
 254 ~~beginning January 1 of the year the claimant claims the abatement or deferral; and]~~
 255 ~~[(c) the claimant meets the requirements under this part for the abatement or deferral.]~~
 256 ~~[(6) The commission shall adopt rules to implement this section.]~~
 257 ~~[(7)]~~ (b) Any poor person may qualify for:
 258 ~~[(a) the deferral of taxes under Section 59-2-1108;]~~
 259 ~~[(b) if the person meets the requisites of this section, for the]~~
 260 (i) an abatement of taxes under Section 59-2-1107 if the person meets the requirements
 261 of this section; [or]
 262 (ii) a deferral of taxes under Section 59-2-1108; or
 263 ~~[(c)]~~ (iii) both:
 264 ~~[(i) the deferral described in Subsection (7) (a); and]~~
 265 ~~[(ii)]~~ (A) the abatement described in Subsection [(7)(b)]. (4)(b)(i); and
 266 (B) the deferral described in Subsection (4)(b)(ii).
 267 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
 268 commission shall adopt rules to implement this section.
 269 Section 5. **Effective date.**
 270 This bill takes effect on January 1, 2008.

Legislative Review Note
 as of 1-15-07 1:26 PM

Office of Legislative Research and General Counsel

**Interim Committee Note
as of 01-16-07 6:34 AM**

The Revenue and Taxation Interim Committee recommended this bill.

S.B. 132 - Property Tax Abatement or Deferral

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill could lead to a shift in burden among property taxpayers. The shift will be dependent upon the number of taxpayers over 65 and those who meet the definition of poor who apply for a deferral. For each 25 percent over 65 who defer taxes there is a potential shift of approximately \$13,500,000. For each 25 percent of those who are poor who defer taxes there is a potential shift of \$12,400,000. There is a potential abatement of property taxes of approximately \$1,000,000.

1/24/2007, 11:42:27 AM, Lead Analyst: Wilko, A.

Office of the Legislative Fiscal Analyst