

SENIOR CITIZEN PROPERTY TAX SAFE

HARBOR

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: D. Chris Buttars

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:

- ▶ defines terms;
- ▶ 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; and
- ▶ requires a county to grant a deferral of a claimant's residential property taxes for individuals 65 years of age or older or an unmarried surviving spouse.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2009.

Utah Code Sections Affected:

AMENDS:

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



28 59-2-1108, as last amended by Laws of Utah 2007, Chapter 306

29 59-2-1109, as last amended by Laws of Utah 2003, Chapter 229

30 ENACTS:

31 59-2-1108.5, Utah Code Annotated 1953



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

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

35 **59-2-1107. Poor persons -- Amount of abatement.**

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

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

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

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

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

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

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

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

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

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

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

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

53 Section 2. Section 59-2-1108 is amended to read:

54 **59-2-1108. Indigent persons -- Deferral of taxes -- Interest rate -- Treatment of**
55 **deferred taxes.**

56 (1) (a) ~~[The]~~ A county may, after giving notice, defer any tax levied on the residential
57 property~~[, subject to the conditions]~~ of a poor person meeting the requirements of Section
58 59-2-1109.

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

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

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

67 ~~[(2)]~~ (3) (a) (i) Taxes deferred by the county accumulate with interest, as provided in
 68 Subsection (3)(b), as a lien against the property until the property is sold [or otherwise disposed
 69 of].

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

73 (b) Deferred taxes under this section:

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

75 (A) 6%; or

76 (B) the federal funds rate target:

77 (I) established by the Federal Open Markets Committee; and

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

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

81 ~~[(3)]~~ (4) Deferral may be granted by the county at any time if[:(a)] the holder of any
 82 mortgage or trust deed outstanding on the property gives written approval of the application[;
 83 and (b) the applicant is not the owner of income producing assets that could be liquidated to
 84 pay the tax].

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

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

88 **59-2-1108.5. Deferral of taxes -- Interest rate -- Treatment of deferred taxes.**

89 (1) For purposes of this section:

90 (a) "Claimant" means:

91 (i) an owner of qualifying residential property who:

92 (A) files an application in accordance with Section 59-2-1109;

93 (B) is 65 years of age or older on or before the date on which an application for deferral

94 described in Subsection (1)(a)(i)(A) is filed;

95 (C) owes a property tax on the qualifying residential property; and

96 (D) resides for not less than ten months of each year in the qualifying residential

97 property;

98 (ii) a grantor of a trust holding title to qualifying residential property:

99 (A) who files an application in accordance with Section 59-2-1109;

100 (B) who is 65 years of age or older on or before the date on which an application for

101 deferral described in Subsection (1)(a)(ii)(A) is filed;

102 (C) if a property tax is owed on the qualifying residential property; and

103 (D) who resides for not less than ten months of each year in the qualifying residential

104 property; or

105 (iii) the unmarried surviving spouse of an owner described in Subsection (1)(a)(i) or a

106 grantor described in Subsection (1)(a)(ii) of qualifying residential property if:

107 (A) the unmarried surviving spouse, regardless of age, files an application in

108 accordance with Section 59-2-1109;

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

110 (C) the unmarried surviving spouse resides for not less than ten months of each year in

111 the qualifying residential property; and

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

113 (I) in accordance with this section; and

114 (II) for the qualifying residential property described in (1)(a)(iii)(B).

115 (b) "Qualifying residential property" means residential property:

116 (i) as defined in Section 59-2-102;

117 (ii) that is single-family residential property; and

118 (iii) owned by a claimant.

119 (2) Subject to Subsection (3), a county shall grant a deferral of up to 100% of the

120 property taxes levied on a claimant's qualifying residential property if:

121 (a) the claimant files an application in accordance with Section 59-2-1109; and

122 (b) the claimant signs a disclosure statement acknowledging that the claimant

123 understands:

124 (i) the deferral is not an abatement of taxes;

125 (ii) the claimant will be required to pay the deferred taxes back to the county upon sale
126 of the qualifying residential property, plus interest; and

127 (iii) a lien will be attached to the qualifying residential property until the deferred taxes
128 plus interest are collected.

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

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

135 (b) Deferred taxes under this section:

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

137 (A) 6%; or

138 (B) the federal-funds rate target:

139 (I) as established by the Federal Open Markets Committee; and

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

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

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

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

147 **59-2-1109. Deferral or abatement -- Application -- Definition of indigent persons.**

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

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

152 ~~[(b) the person is disabled.]~~

153 ~~[(2)]~~ (1) (a) An application for ~~[the deferral or]~~ an abatement under Section 59-2-1107
 154 or a deferral under Section 59-2-1108 or 59-2-1108.5 shall be filed on or before September 1
 155 with the county in which the property is located.

156 (b) The application shall include a signed statement setting forth ~~[the]~~:

157 (i) eligibility [of the applicant] for the [deferral or] abatement[-] or deferral; and

158 (ii) the amount of abatement or deferral for which the applicant is applying.

159 (c) Both husband and wife shall sign the application if the husband ~~[and]~~ or wife seek a
 160 deferral or abatement on a residence:

161 (i) in which they both reside; and

162 (ii) which they own as joint tenants.

163 (d) A county may extend the deadline for filing under Subsection ~~[(2)]~~ (1)(a) until
 164 December 31 if the county finds that good cause exists to extend the deadline.

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

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

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

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

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

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

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

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

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

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

183 (i) by:
 184 (A) the claimant as grantor of the trust;
 185 (B) a nonadverse party; or
 186 (C) both the claimant and a nonadverse party; and
 187 (ii) regardless of whether the power is a power to:
 188 (A) revoke;
 189 (B) terminate;
 190 (C) alter;
 191 (D) amend; or
 192 (E) appoint;
 193 (b) the claimant is obligated to pay the taxes on that portion of the trust property
 194 beginning January 1 of the year the claimant claims the abatement or deferral; and
 195 (c) the claimant meets the requirements under Section 59-2-1107, 59-2-1108, or
 196 59-2-1108.5 for the abatement or deferral.
 197 (3) A person under the age of 65 years is not eligible for an abatement under Section
 198 59-2-1107 or a deferral under Section 59-2-1108 unless:
 199 (a) the county finds that extreme hardship would prevail if the grants were not made; or
 200 (b) the person is disabled.
 201 (4) (a) For purposes of ~~[this section]~~ Sections 59-2-1107 and 59-2-1108, and this
 202 Subsection (4):
 203 ~~[(a) a poor person is any person:]~~
 204 (i) "Poor person" means a person:
 205 ~~[(i)]~~ (A) whose total household income as defined in Section 59-2-1202 is less than the
 206 maximum household income ~~[certified to]~~ for which a homeowner's credit is allowed under
 207 Subsection 59-2-1208(1);
 208 ~~[(ii)]~~ (B) who resides for not less than ten months of each year in the residence for
 209 which the ~~[tax relief, deferral, or]~~ abatement or deferral is requested; and
 210 ~~[(iii)]~~ (C) who is unable to meet the tax assessed on the person's residential property as
 211 the tax becomes due~~[-and]~~.
 212 ~~[(b)]~~ (ii) "Residence" includes a mobile home as defined under Section 70D-1-19.
 213 ~~[(5) If the claimant is the grantor of a trust holding title to real or tangible personal~~

214 property on which an abatement or deferral is claimed, the claimant may claim the portion of
 215 the abatement or deferral under Section 59-2-1107 or 59-2-1108 and be treated as the owner of
 216 that portion of the property held in trust for which the claimant proves to the satisfaction of the
 217 county that:]

218 [~~(a) title to the portion of the trust will revert in the claimant upon the exercise of a~~
 219 ~~power:]~~

220 [~~(i) by:]~~

221 [~~(A) the claimant as grantor of the trust;~~

222 [~~(B) a nonadverse party; or]~~

223 [~~(C) both the claimant and a nonadverse party; and]~~

224 [~~(ii) regardless of whether the power is a power:]~~

225 [~~(A) to revoke;~~

226 [~~(B) to terminate;~~

227 [~~(C) to alter;~~

228 [~~(D) to amend; or]~~

229 [~~(E) to appoint;]~~

230 [~~(b) the claimant is obligated to pay the taxes on that portion of the trust property~~
 231 ~~beginning January 1 of the year the claimant claims the abatement or deferral; and]~~

232 [~~(c) the claimant meets the requirements under this part for the abatement or deferral:]~~

233 [~~(6) The commission shall adopt rules to implement this section.]~~

234 [~~(7) (b) Any poor person may qualify for:~~

235 [~~(a) the deferral of taxes under Section 59-2-1108;~~

236 [~~(b) if the person meets the requisites of this section, for the]~~

237 [~~(i) an abatement of taxes under Section 59-2-1107 if the person meets the requirements~~
 238 ~~of this section; [or]~~

239 [~~(ii) a deferral of taxes under Section 59-2-1108; or~~

240 [~~(c) (iii) both:~~

241 [~~(i) the deferral described in Subsection (7) (a); and]~~

242 [~~(ii) (A) the abatement described in Subsection [(7)(b).] (4)(b)(i); and~~

243 [~~(B) the deferral described in Subsection (4)(b)(ii).~~

244 [~~(5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the~~

245 commission may adopt rules to implement this section.

246 Section 5. **Effective date.**

247 This bill takes effect on January 1, 2009.

Legislative Review Note
as of 1-28-08 2:12 PM

Office of Legislative Research and General Counsel

S.B. 178 - Senior Citizen Property Tax Safe Harbor

Fiscal Note

2008 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 who apply for a deferral. For each 10 percent who defer taxes there is a potential shift of approximately \$12.4 million. The shift will be also be dependent upon the number of taxpayers under a certain income limit who apply for an abatement and/or deferral. For each 10 percent of these individuals who apply for an abatement or deferral there is a potential shift of approximately \$12.1 million. In addition, dependent upon the decisions of the county, businesses and non-qualifying individuals may experience an increase in property tax liability.
