

**PROPERTY TAX DEFERRALS, ABATEMENTS,
AND RELIEF LIMITATIONS**

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Dennis E. Stowell

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Property Tax Act to address abatements, deferrals, and property tax relief regarding registered sex offenders.

Highlighted Provisions:

This bill:

- ▶ provides that a person registered as a sex offender may not receive certain abatements, deferrals, or property tax relief; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill has retrospective operation to January 1, 2008.

Utah Code Sections Affected:

AMENDS:

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

59-2-1202, as last amended by Laws of Utah 2006, Chapter 363

59-2-1347, as last amended by Laws of Utah 2007, Chapter 306

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



28 Section 1. Section **59-2-1109** is amended to read:

29 **59-2-1109. Indigent persons -- Deferral or abatement -- Application -- County**
30 **authority to make refunds.**

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

33 [~~(a)~~] (i) (A) the county finds that extreme hardship would prevail if the grants were not
34 made; or

35 [~~(b)~~] (B) the person is disabled[-]; and

36 (ii) the person is not registered as a sex offender under Section 77-27-21.5 at any time
37 during the calendar year for which an application for deferral or abatement is filed under this
38 part.

39 (b) A person 65 years of age or older is not eligible for a deferral or abatement
40 provided for poor people under Sections 59-2-1107 and 59-2-1108 if the person is registered as
41 a sex offender:

42 (i) under Section 77-27-21.5; and

43 (ii) at any time during the calendar year for which the person files an application for
44 relief.

45 (2) (a) An application for the deferral or abatement shall be filed on or before
46 September 1 with the county in which the property is located.

47 (b) The application shall include a signed statement setting forth the eligibility of the
48 applicant for the deferral or abatement.

49 (c) Both husband and wife shall sign the application if the husband and wife seek a
50 deferral or abatement on a residence:

51 (i) in which they both reside; and

52 (ii) which they own as joint tenants.

53 (d) A county may extend the deadline for filing under Subsection (2)(a) until December
54 31 if the county finds that good cause exists to extend the deadline.

55 (3) (a) For purposes of this Subsection (3):

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

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

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

- 59 (ii) "Property taxes paid" is an amount equal to the sum of:
- 60 (A) the amount of the property taxes the person paid for the taxable year for which the
- 61 person is applying for the abatement; and
- 62 (B) the amount of the abatement the county grants under Section 59-2-1107.
- 63 (b) A county granting an abatement to a person under Section 59-2-1107 shall refund
- 64 to that person an amount equal to the amount by which the person's property taxes paid exceed
- 65 the person's property taxes due, if that amount is \$1 or more.
- 66 (4) For purposes of this section:
- 67 (a) a poor person is any person:
- 68 (i) whose total household income as defined in Section 59-2-1202 is less than the
- 69 maximum household income certified to a homeowner's credit under Subsection 59-2-1208(1);
- 70 (ii) who resides for not less than ten months of each year in the residence for which the
- 71 tax relief, deferral, or abatement is requested; and
- 72 (iii) who is unable to meet the tax assessed on the person's residential property as the
- 73 tax becomes due; and
- 74 (b) "residence" includes a mobile home as defined under Section 70D-1-19.
- 75 (5) If the claimant is the grantor of a trust holding title to real or tangible personal
- 76 property on which an abatement or deferral is claimed, the claimant may claim the portion of
- 77 the abatement or deferral under Section 59-2-1107 or 59-2-1108 and be treated as the owner of
- 78 that portion of the property held in trust for which the claimant proves to the satisfaction of the
- 79 county that:
- 80 (a) title to the portion of the trust will revert in the claimant upon the exercise of a
- 81 power:
- 82 (i) by:
- 83 (A) the claimant as grantor of the trust;
- 84 (B) a nonadverse party; or
- 85 (C) both the claimant and a nonadverse party; and
- 86 (ii) regardless of whether the power is a power:
- 87 (A) to revoke;
- 88 (B) to terminate;
- 89 (C) to alter;

- 90 (D) to amend; or
- 91 (E) to appoint;
- 92 (b) the claimant is obligated to pay the taxes on that portion of the trust property
- 93 beginning January 1 of the year the claimant claims the abatement or deferral; and
- 94 (c) the claimant meets the requirements under this part for the abatement or deferral.
- 95 (6) The commission shall adopt rules to implement this section.

96 (7) ~~Any~~ A poor person may qualify for:

- 97 (a) the deferral of taxes under Section 59-2-1108;
- 98 (b) if the person meets the requisites of this section, for the abatement of taxes under
- 99 Section 59-2-1107; or

100 (c) both:

101 (i) the deferral described in Subsection (7)(a); and

102 (ii) the abatement described in Subsection (7)(b).

103 Section 2. Section **59-2-1202** is amended to read:

104 **59-2-1202. Definitions.**

105 As used in this part:

106 (1) (a) "Claimant" means a homeowner or renter who:

107 (i) ~~has filed~~ files a claim under this part;

108 (ii) is domiciled in this state for the entire calendar year for which a claim for relief is

109 filed under this part; ~~and~~

110 (iii) on or before the December 31 of the year for which a claim for relief is filed under

111 this part, is:

112 (A) 65 years of age or older if the person was born on or before December 31, 1942;

113 (B) 66 years of age or older if the person was born on or after January 1, 1943, but on

114 or before December 31, 1959; or

115 (C) 67 years of age or older if the person was born on or after January 1, 1960[-]; and

116 (iv) is not registered as a sex offender under Section 77-27-21.5 at any time during the

117 calendar year for which a claim for relief is filed under this part.

118 (b) A surviving spouse, who otherwise qualifies under this section, is an eligible

119 claimant regardless of age.

120 (c) If two or more individuals of a household are able to meet the qualifications for a

121 claimant, they may determine among them as to who the claimant shall be, but if they are
122 unable to agree, the matter shall be referred to the county legislative body for a determination
123 of the claimant of an owned residence and to the commission for a determination of the
124 claimant of a rented residence.

125 (2) (a) "Gross rent" means rental actually paid in cash or its equivalent solely for the
126 right of occupancy, at arm's-length, of a residence, exclusive of charges for any utilities,
127 services, furniture, furnishings, or personal appliances furnished by the landlord as a part of the
128 rental agreement.

129 (b) If a claimant occupies two or more residences in the year and does not own the
130 residence as of the lien date, "gross rent" means the total rent paid for the residences during the
131 one-year period for which the renter files a claim under this part.

132 (3) "Homeowner's credit" means a credit against a claimant's property tax liability.

133 (4) "Household" means the association of persons who live in the same dwelling,
134 sharing its furnishings, facilities, accommodations, and expenses.

135 (5) "Household income" means all income received by all persons of a household in:

136 (a) the calendar year preceding the calendar year in which property taxes are due; or

137 (b) for purposes of the renter's credit authorized by this part, the year for which a claim
138 is filed.

139 (6) (a) (i) "Income" means the sum of:

140 (A) federal adjusted gross income as defined in Section 62, Internal Revenue Code;

141 and

142 (B) all nontaxable income as defined in Subsection (6)(b).

143 (ii) "Income" does not include:

144 (A) aid, assistance, or contributions from a tax-exempt nongovernmental source;

145 (B) surplus foods;

146 (C) relief in kind supplied by a public or private agency; or

147 (D) relief provided under this part, Section 59-2-1108, or Section 59-2-1109.

148 (b) For purposes of Subsection (6)(a)(i), "nontaxable income" means amounts excluded
149 from adjusted gross income under the Internal Revenue Code, including:

150 (i) capital gains;

151 (ii) loss carry forwards claimed during the taxable year in which a claimant files for

152 relief under this part, Section 59-2-1108, or Section 59-2-1109;

153 (iii) depreciation claimed pursuant to the Internal Revenue Code by a claimant on the
154 residence for which the claimant files for relief under this part, Section 59-2-1108, or Section
155 59-2-1109;

156 (iv) support money received;

157 (v) nontaxable strike benefits;

158 (vi) cash public assistance or relief;

159 (vii) the gross amount of a pension or annuity, including benefits under the Railroad
160 Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq., and veterans disability pensions;

161 (viii) payments received under the Social Security Act;

162 (ix) state unemployment insurance amounts;

163 (x) nontaxable interest received from any source;

164 (xi) workers' compensation;

165 (xii) the gross amount of "loss of time" insurance; and

166 (xiii) voluntary contributions to a tax-deferred retirement plan.

167 (7) (a) "Property taxes accrued" means property taxes, exclusive of special
168 assessments, delinquent interest, and charges for service, levied on a claimant's residence in
169 this state.

170 (b) For a mobile home, "property taxes accrued" includes taxes imposed on both the
171 land upon which the home is situated and on the structure of the home itself, whether classified
172 as real property or personal property taxes.

173 (c) (i) Beginning on January 1, 1999, for a claimant who owns a residence, "property
174 taxes accrued" are the property taxes described in Subsection (7)(a) levied for the calendar year
175 on 35% of the fair market value of the residence as reflected on the assessment roll.

176 (ii) The amount described in Subsection (7)(c)(i) constitutes:

177 (A) a tax abatement for the poor in accordance with Utah Constitution Article XIII,
178 Section 3; and

179 (B) the residential exemption provided for in Section 59-2-103.

180 (d) (i) For purposes of this Subsection (7) property taxes accrued are levied on the lien
181 date.

182 (ii) If a claimant owns a residence on the lien date, property taxes accrued mean taxes

183 levied on the lien date, even if that claimant does not own a residence for the entire year.

184 (e) When a household owns and occupies two or more different residences in this state
185 in the same calendar year, property taxes accrued shall relate only to the residence occupied on
186 the lien date by the household as its principal place of residence.

187 (f) (i) If a residence is an integral part of a large unit such as a farm or a multipurpose
188 or multidwelling building, property taxes accrued shall be the same percentage of the total
189 property taxes accrued as the value of the residence is of the total value.

190 (ii) For purposes of this Subsection (7)(f), "unit" refers to the parcel of property
191 covered by a single tax statement of which the residence is a part.

192 (8) (a) As used in this section, "rental assistance payment" means any payment that:

193 (i) is made by a:

194 (A) governmental entity; or

195 (B) (I) charitable organization; or

196 (II) religious organization; and

197 (ii) is specifically designated for the payment of rent of a claimant:

198 (A) for the calendar year for which the claimant seeks a renter's credit under this part;

199 and

200 (B) regardless of whether the payment is made to the:

201 (I) claimant; or

202 (II) landlord; and

203 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
204 commission may make rules defining the terms:

205 (i) "governmental entity";

206 (ii) "charitable organization"; or

207 (iii) "religious organization."

208 (9) (a) "Residence" means the dwelling, whether owned or rented, and so much of the
209 land surrounding it, not exceeding one acre, as is reasonably necessary for use of the dwelling
210 as a home, and may consist of a part of a multidwelling or multipurpose building and a part of
211 the land upon which it is built and includes a mobile home or houseboat.

212 (b) "Residence" does not include personal property such as furniture, furnishings, or
213 appliances.

214 (c) For purposes of this Subsection (9), "owned" includes a vendee in possession under
215 a land contract or one or more joint tenants or tenants in common.

216 Section 3. Section **59-2-1347** is amended to read:

217 **59-2-1347. Redemption -- Adjustment or deferral of taxes -- Interest.**

218 (1) (a) (i) If [~~any~~] an interested person applies to the county legislative body for an
219 adjustment or deferral of taxes levied against property assessed by the county assessor, a sum
220 less than the full amount due may be accepted, or the full amount may be deferred, where, in
221 the judgment of the county legislative body, the best human interests and the interests of the
222 state and the county are served.

223 (ii) Nothing in this section prohibits the county legislative body from granting
224 retroactive adjustments or deferrals if the criteria established in this Subsection (1) are met.

225 (b) If [~~any~~] an interested person applies to the commission for an adjustment of taxes
226 levied against property assessed by the commission, a sum less than the full amount due may
227 be accepted, where, in the judgment of the commission, the best human interests and the
228 interests of the state and the county are served.

229 (2) If an application is made, the applicant shall submit a statement, setting forth the
230 following:

- 231 (a) a description of the property;
- 232 (b) the value of the property for the current year;
- 233 (c) the amount of delinquent taxes, interest, and penalties;
- 234 (d) the amount proposed to be paid in settlement or to be deferred; and
- 235 (e) any other information required by the county legislative body.

236 (3) (a) Blank forms for the application shall be prepared by the commission.

237 (b) A deferral may not be granted without the written consent of the holder of any
238 mortgage or trust deed outstanding on the property.

239 (c) The amount deferred shall be recorded as a lien on the property and shall bear
240 interest at a rate equal to the lesser of:

- 241 (i) 6%; or
- 242 (ii) the federal funds rate target:
 - 243 (A) established by the Federal Open Markets Committee; and
 - 244 (B) that exists on the January 1 immediately preceding the day on which the taxes are

245 deferred.

246 (d) The amount deferred together with accrued interest shall be due and payable when
247 the property is sold or otherwise conveyed.

248 (4) Within ten days after the consummation of ~~[any]~~ an adjustment or deferral, the
249 county legislative body or the commission, as the case may be, shall cause the adjustment or
250 deferral to be posted in the county where the property involved is located. The publication
251 shall contain:

- 252 (a) the name of the applicant;
- 253 (b) the parcel, serial, or account number of the property;
- 254 (c) the value of the property for the current year;
- 255 (d) the sum of the delinquent taxes, interest, and penalty due; and
- 256 (e) the adjusted amount paid or deferred.

257 (5) Notwithstanding the other provisions of this section, the county legislative body or
258 the commission may not make an adjustment or deferral under this section if at any time during
259 the entire calendar year for which an application is filed under this section the applicant is
260 registered as a sex offender under Section 77-27-21.5.

261 ~~[(5)]~~ (6) (a) A record of the action taken by the county legislative body shall be sent to
262 the commission at the end of each month for all action taken during the preceding month.

263 (b) A record of the action taken by the commission shall be sent to the county
264 legislative body of the counties affected by the action.

265 Section 4. **Retrospective operation.**

266 This bill has retrospective operation to January 1, 2008.

Legislative Review Note
as of 2-12-08 10:06 AM

Office of Legislative Research and General Counsel

S.B. 217 - Property Tax Deferrals, Abatements, and Relief Limitations

Fiscal Note

2008 General Session
State of Utah

State Impact

Enactment of this bill could increase the General Fund by \$172,000 in FY 2009 and by \$180,000 in FY 2010.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
General Fund	\$0	\$0	\$0	\$0	\$172,000	\$180,000
Total	\$0	\$0	\$0	\$0	\$172,000	\$180,000

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses. Local governments could see revenue increases of \$72,200 in FY 2009 and \$73,800 in FY 2010.