

CIRCUIT BREAKER AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill modifies provisions relating to the tax relief commonly known as "circuit breaker."

Highlighted Provisions:

This bill:

- ▶ modifies the qualifications for circuit breaker tax relief;
- ▶ changes the consumer price index used to adjust annual income qualifications; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

- 59-2-1202 (Effective 01/01/20)**, as last amended by Laws of Utah 2019, Chapter 453
- 59-2-1203**, as last amended by Laws of Utah 2001, Chapters 221 and 310
- 59-2-1206**, as last amended by Laws of Utah 2001, Chapters 221 and 310
- 59-2-1208**, as last amended by Laws of Utah 2018, Chapters 405 and 456
- 59-2-1209**, as last amended by Laws of Utah 2018, Chapters 405 and 456
- 59-2-1220**, as last amended by Laws of Utah 2001, Chapters 221 and 310

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

Section 1. Section **59-2-1202 (Effective 01/01/20)** is amended to read:

59-2-1202 (Effective 01/01/20). Definitions.

As used in this part:

- (1) (a) "Claimant" means a homeowner or renter who:
 - (i) files a claim under this part for a residence;

33 (ii) is domiciled in this state for the entire calendar year for which a claim for relief is
34 filed under this part; and

35 (iii) on or before the December 31 of the year for which a claim for relief is filed under
36 this part, is:

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

38 [~~(B)~~] (A) 66 years of age or older if the [person was born on or after January 1, 1943,
39 ~~but~~] individual was born on or before December 31, 1959; or

40 [~~(C)~~] (B) 67 years of age or older if the [person] individual was born on or after
41 January 1, 1960.

42 (b) Notwithstanding Subsection (1)(a), "claimant" includes a surviving spouse:

43 (i) regardless of:

44 (A) the age of the surviving spouse; or

45 (B) the age of the deceased spouse at the time of death;

46 (ii) if the surviving spouse meets the requirements of this part except for the age
47 requirement;

48 (iii) if the surviving spouse is part of the same household of the deceased spouse at the
49 time of death of the deceased spouse; and

50 (iv) if the surviving spouse is unmarried at the time the surviving spouse files the
51 claim.

52 (c) If two or more individuals of a household are able to meet the qualifications for a
53 claimant, they may determine among them as to who the claimant shall be, but if they are
54 unable to agree, the matter shall be referred to the county legislative body for a determination
55 of the claimant of an owned residence and to the commission for a determination of the
56 claimant of a rented residence.

57 (2) "Consumer price index housing" means the Consumer Price Index - All Urban
58 Consumers, Housing United States Cities Average, published by the Bureau of Labor Statistics
59 of the United States Department of Labor.

60 [~~(2)~~] (3) (a) "Gross rent" means [~~rental~~] rent actually paid in cash or its equivalent
61 solely for the right of occupancy, at arm's-length, of a residence, exclusive of charges for any
62 utilities, services, furniture, furnishings, or personal appliances furnished by the landlord as a
63 part of the rental agreement.

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

67 (4) (a) "Homeowner" means:

68 (i) an individual whose name is listed on the deed of a residence; or

69 (ii) if a residence is owned in a qualifying trust, an individual who is a grantor, trustor,
70 or settlor or holds another similar role in the trust.

71 (b) "Homeowner" does not include:

72 (i) if a residence is owned by any type of entity other than a qualifying trust, an
73 individual who holds an ownership interest in that entity; or

74 (ii) an individual who is listed on a deed of a residence along with an entity other than
75 a qualifying trust.

76 ~~(3)~~ (5) "Homeowner's credit" means a credit against a claimant's property tax
77 liability.

78 ~~(4)~~ (6) "Household" means the association of ~~[persons]~~ individuals who live in the
79 same dwelling, sharing ~~[its]~~ the dwelling's furnishings, facilities, accommodations, and
80 expenses.

81 ~~(5)~~ "Household"

82 (7) (a) Except as provided in Subsection (7)(b), "household income" means all income
83 received by all ~~[persons of a]~~ members of a claimant's household in:

84 ~~(a)~~ (i) for a claimant who owns a residence, the calendar year preceding the calendar
85 year in which property taxes are due; or

86 ~~(b)~~ (ii) for ~~[purposes of the renter's credit authorized by this part]~~ a claimant who
87 rents a residence, the year for which a claim is filed.

88 (b) "Household income" does not include income received by a member of a claimant's
89 household who is:

90 (i) under the age of 18; or

91 (ii) a parent or grandparent, through blood, marriage, or adoption, of the claimant or
92 the claimant's spouse.

93 ~~(6)~~ (8) (a) (i) "Income" means the sum of:

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

95 and

96 (B) all nontaxable income as defined in Subsection [~~(6)~~] (8)(b).

97 (ii) "Income" does not include:

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

99 (B) surplus foods;

100 (C) relief in kind supplied by a public or private agency; [~~or~~]

101 (D) relief provided under this part or Part 18, Tax Deferral and Tax Abatement[~~;~~]; or

102 (E) Social Security Disability Income payments received under the Social Security Act.

103 (b) For purposes of Subsection [~~(6)~~] (8)(a)(i), "nontaxable income" means amounts

104 excluded from adjusted gross income under the Internal Revenue Code, including:

105 (i) capital gains;

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

107 relief under this part or Part 18, Tax Deferral and Tax Abatement;

108 (iii) depreciation claimed pursuant to the Internal Revenue Code by a claimant on the

109 residence for which the claimant files for relief under this part or Part 18, Tax Deferral and Tax

110 Abatement;

111 (iv) support money received;

112 (v) nontaxable strike benefits;

113 (vi) cash public assistance or relief;

114 (vii) the gross amount of a pension or annuity, including benefits under the Railroad

115 Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq., and veterans disability pensions;

116 (viii) except for payments described in Subsection (8)(a)(ii)(E), payments received

117 under the Social Security Act;

118 (ix) state unemployment insurance amounts;

119 (x) nontaxable interest received from any source;

120 (xi) workers' compensation;

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

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

123 [~~(7)~~] (9) (a) "Property taxes accrued" means property taxes, exclusive of special

124 assessments, delinquent interest, and charges for service, levied on 35% of the fair market

125 value, as reflected on the assessment role, of a claimant's residence in this state.

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

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

132 ~~[(ii)]~~ (c) The ~~[amount]~~ relief described in Subsection ~~[(7)(c)(i)]~~ (9)(a) constitutes:

133 ~~[(A)]~~ (i) a tax abatement for the poor in accordance with Utah Constitution, Article
134 XIII, Section 3; and

135 ~~[(B)]~~ (ii) the residential exemption provided for in Section 59-2-103.

136 (d) (i) For purposes of this Subsection ~~[(7)]~~ (9), property taxes accrued are levied on
137 the lien date.

138 (ii) If a claimant owns a residence on the lien date, property taxes accrued mean taxes
139 levied on the lien date, even if that claimant does not own a residence for the entire year.

140 (e) When a household owns and occupies two or more different residences in this state
141 in the same calendar year, property taxes accrued shall relate only to the residence occupied on
142 the lien date by the household as ~~[its]~~ the household's principal place of residence.

143 (f) (i) If a residence is an integral part of a large unit such as a farm or a multipurpose
144 or multidwelling building, property taxes accrued shall be ~~[the same percentage of the total~~
145 ~~property taxes accrued as]~~ calculated on the percentage that the value of the residence is of the
146 total value of the unit.

147 (ii) For purposes of this Subsection ~~[(7)]~~ (9)(f), "unit" refers to the parcel of property
148 covered by a single tax statement of which the residence is a part.

149 (10) "Qualifying trust" means a trust holding title to real or tangible personal property
150 for which an individual:

151 (a) makes a claim under this part;

152 (b) proves to the satisfaction of the county that title to the portion of the trust will
153 revest in the individual upon the exercise of a power:

154 (i) by:

155 (A) the individual as grantor, trustor, settlor, or in another similar role of the trust;

156 (B) a nonadverse party; or

157 (C) both the individual and a nonadverse party; and
 158 (ii) regardless of whether the power is a power:
 159 (A) to revoke;
 160 (B) to terminate;
 161 (C) to alter;
 162 (D) to amend; or
 163 (E) to appoint; and
 164 (c) is obligated to pay the taxes on that portion of the trust property beginning January
 165 1 of the year the individual makes the claim.

166 ~~[(8)]~~ (11) (a) As used in this section, "rental assistance payment" means any payment
 167 that:

168 (i) is made by a:
 169 (A) governmental entity; ~~[or]~~
 170 (B) ~~[(H)]~~ charitable organization; or
 171 ~~[(H)]~~ (C) religious organization; and
 172 (ii) is specifically designated for the payment of rent of a claimant:
 173 (A) for the calendar year for which the claimant seeks a renter's credit under this part;

174 and

175 (B) regardless of whether the payment is made to the:
 176 (I) claimant; or
 177 (II) landlord~~[-and]~~.

178 (b) ~~[in]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
 179 the commission may make rules defining the terms:

180 (i) "governmental entity";
 181 (ii) "charitable organization"; or
 182 (iii) "religious organization."

183 ~~[(9)]~~ (12) (a) (i) "Residence" means the dwelling, whether owned or rented, and so
 184 much of the land surrounding ~~[it]~~ the dwelling, not exceeding one acre, as is reasonably
 185 necessary for use of the dwelling as a home~~[-and may consist of]~~.

186 (ii) "Residence" includes a dwelling that is:

187 (A) a part of a multidwelling or multipurpose building and a part of the land upon

188 which ~~[it] the multidwelling or multipurpose building~~ is built; and ~~[includes]~~

189 ~~(B) a mobile home or houseboat.~~

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

192 (c) For purposes of this Subsection ~~[(9)] (12)~~, "owned" includes a vendee in possession
193 under a land contract or one or more joint tenants or tenants in common.

194 Section 2. Section **59-2-1203** is amended to read:

195 **59-2-1203. Right to file claim -- Death of claimant.**

196 (1) (a) The right to file a claim under this part is personal to the claimant.

197 (b) The right to file a claim does not survive the claimant's death.

198 (c) The right to file a claim may be exercised on behalf of a claimant by:

199 (i) a legal guardian of the claimant; or

200 (ii) an attorney-in-fact of the claimant.

201 (2) (a) If a claimant dies after having filed a timely claim, the amount of the claim shall
202 be disbursed to another member of the household as determined by the commission by rule.

203 (b) If the claimant described in Subsection (2)(a) was the only member of the
204 household, the claim may be paid to the executor or administrator, except that if neither an
205 executor or administrator is appointed and qualified within two years of the filing of the claim,
206 the amount of the claim shall escheat to the state.

207 (3) If the claimant is the grantor ~~[of a trust holding title to real or tangible personal~~
208 ~~property on which a credit is claimed]~~, trustor, or settlor of or holds another similar role in a
209 qualifying trust and the claimant meets the requirements of this part, the claimant may claim
210 the portion of the credit and be treated as the owner of that portion of the property held in trust
211 ~~[for which the claimant proves to the satisfaction of the county that:]~~.

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

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

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

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

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

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

219 ~~[(A) to revoke;]~~
 220 ~~[(B) to terminate;]~~
 221 ~~[(C) to alter;]~~
 222 ~~[(D) to amend; or]~~
 223 ~~[(E) to appoint;]~~
 224 ~~[(b) the claimant is obligated to pay the taxes on that portion of the trust property~~
 225 ~~beginning January 1 of the year the claimant claims the credit; and]~~
 226 ~~[(c) the claimant meets the requirements under this part for the credit.]~~

227 (4) The [amount] relief described in Subsection 59-2-1202~~[(7)(c)(i)]~~(9)(a) is in
 228 addition to any other exemption or reduction for which a homeowner may be eligible,
 229 including the homeowner's credit provided for in Section 59-2-1206.

230 Section 3. Section **59-2-1206** is amended to read:

231 **59-2-1206. Application for homeowner's credit -- Time for filing -- Payment from**
 232 **General Fund.**

233 (1) (a) A claimant applying for a homeowner's credit shall file annually [~~file~~] an
 234 application for the credit with the county before September 1.

235 (b) The application under this section shall:

236 (i) be on forms provided by:

237 (A) the commission; or

238 (B) the county in which the applicant resides; and

239 (ii) include a household income statement signed by the claimant stating that:

240 (A) the income statement is correct; and

241 (B) the claimant qualifies for the credit.

242 (c) (i) Subject to Subsection (1)(c)(ii), a county shall apply the credit in accordance
 243 with this section and Section 59-2-1207 for the year in which the claimant applies for a
 244 homeowner's credit if the claimant meets the criteria for obtaining a homeowner's credit as
 245 provided in this part.

246 (ii) A homeowner's credit under this part may not exceed the claimant's property tax
 247 liability for the year in which the claimant applies for a homeowner's credit under this part.

248 (d) A claimant may qualify for a homeowner's credit under this part regardless of
 249 whether the claimant owes delinquent property taxes.

250 (2) (a) (i) The county shall compile a list of claimants and the homeowner's credits
 251 granted to the claimants for purposes of obtaining payment from the General Fund for the
 252 amount of credits granted.

253 (ii) A county may not obtain payment from the General Fund for the amount described
 254 in Subsection 59-2-1202[~~(7)~~](9).

255 (b) Upon certification by the commission the payment for the credits under this
 256 Subsection (2) shall be made to the county on or before January 1 if the list of claimants and
 257 the credits granted are received by the commission on or before November 30 of the year in
 258 which the credits under this part are granted.

259 (c) If the commission does not receive the list under this Subsection (2) on or before
 260 November 30, payment shall be made within 30 days of receipt of the list of claimants and
 261 credits from the county.

262 Section 4. Section **59-2-1208** is amended to read:

263 **59-2-1208. Amount of homeowner's credit -- Cost-of-living adjustment --**
 264 **Limitation -- General Fund as source of credit.**

265 (1) (a) Subject to Subsections (2) and (4), for a calendar year beginning on or after
 266 January 1, [~~2007~~] 2020, a claimant may claim a homeowner's credit that does not exceed the
 267 following amounts:

If household income is	Homeowner's credit
268 \$0 -- [\$9,159] <u>\$14,618</u>	[\$798] <u>\$1,012</u>
269 [\$9,160 -- \$12,214] <u>\$14,619 --</u> 270 <u>\$18,493</u>	[\$696] <u>\$883</u>
271 [\$12,215 -- \$15,266] <u>\$18,494 --</u> 272 <u>\$22,364</u>	[\$597] <u>\$757</u>
273 [\$15,267 -- \$18,319] <u>\$22,365 --</u> 274 <u>\$26,236</u>	[\$447] <u>\$567</u>
275 [\$18,320 -- \$21,374] <u>\$26,237 --</u> 276 <u>\$30,111</u>	[\$348] <u>\$441</u>
277 [\$21,375 -- \$24,246] <u>\$30,112 --</u> 278 <u>\$33,754</u>	[\$199] <u>\$252</u>

305 January 1, ~~[2007]~~ 2020, a claimant may claim a renter's credit for the previous calendar year
 306 that does not exceed the following amounts:

307	If household income is	Percentage of rent allowed as a credit
308	\$0 -- [\$9,159] <u>\$14,618</u>	9.5%
309	[\$9,160 -- \$12,214] <u>\$14,619 --</u> <u>\$18,493</u>	8.5%
310	[\$12,215 -- \$15,266] <u>\$18,494 --</u> <u>\$22,364</u>	7.0%
311	[\$15,267 -- \$18,319] <u>\$22,365 --</u> <u>\$26,236</u>	5.5%
312	[\$18,320 -- \$21,374] <u>\$26,237 --</u> <u>\$30,111</u>	4.0%
313	[\$21,375 -- \$24,246] <u>\$30,112 --</u> <u>\$33,754</u>	3.0%
314	[\$24,247 -- \$26,941] <u>\$33,755 --</u> <u>\$37,173</u>	2.5%

315 (b) ~~[(†)]~~ For a calendar year beginning on or after January 1, ~~[2008]~~ 2021, the
 316 commission shall increase or decrease the household income eligibility amounts under
 317 Subsection (1)(a) by a percentage equal to the percentage difference between the consumer
 318 price index housing for the preceding calendar year and the consumer price index housing for
 319 calendar year ~~[2006]~~ 2019.

320 ~~[(ii) For purposes of Subsection (1)(b)(i), the commission shall calculate the consumer~~
 321 ~~price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code:.]~~

322 (2) A claimant may claim a renter's credit under this part only for rent that does not
 323 constitute a rental assistance payment.

324 (3) An individual may not receive the renter's credit under this section if the individual
 325 is:

326 (a) claimed as a personal exemption on another individual's federal income tax return
 327 during any portion of a calendar year for which the individual seeks to claim the renter's credit
 328 under this section; or

329 (b) a dependent with respect to whom another individual claims a tax credit under
330 Section 24(h)(4), Internal Revenue Code, during any portion of a calendar year for which the
331 individual seeks to claim the renter's credit under this section.

332 (4) A payment for a renter's credit allowed by this section, and provided for in Section
333 59-2-1204, shall be paid from the General Fund.

334 (5) ~~[For calendar years beginning on or after January 1, 2007, a]~~ A credit under this
335 section may not exceed the maximum amount allowed as a homeowner's credit for each
336 income bracket under Subsection 59-2-1208(1)(a).

337 Section 6. Section **59-2-1220** is amended to read:

338 **59-2-1220. Extension of time for filing claim -- County authority to make refunds.**

339 (1) The commission or a county may extend the time for filing a claim until December
340 31 of the year the claim is required to be filed, if the commission or county finds that good
341 cause exists to extend the deadline.

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

343 (i) "Abatement" means the amount of property taxes accrued that constitutes a tax
344 abatement for the poor in accordance with Subsection 59-2-1202~~(7)~~(9).

345 (ii) "Credit" means a homeowner's credit or renter's credit authorized by this part.

346 (iii) "Property taxes due" means the taxes due on a claimant's property:

347 (A) for which an abatement or a credit is granted by a county or the commission; and

348 (B) for the calendar year for which the abatement or credit is granted.

349 (iv) "Property taxes paid" is an amount equal to the sum of:

350 (A) the amount of the property taxes ~~[the claimant]~~ paid for the taxable year for which
351 the claimant is applying for the abatement or credit; and

352 (B) the amount of the abatement or credit the county or the commission grants.

353 (b) A county or the commission granting an abatement or a credit to a claimant shall
354 refund to that claimant an amount equal to the amount by which the claimant's property taxes
355 paid exceed the claimant's property taxes due, if that amount is \$1 or more.

356 Section 7. **Retrospective operation.**

357 This bill has retrospective operation to January 1, 2020.