

Effective 5/12/2020

Superseded 5/5/2021

59-2-1202 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;
 - (ii) is domiciled in this state for the entire calendar year for which a claim for relief is filed under this part; and
 - (iii) on or before the December 31 of the year for which a claim for relief is filed under this part, is:
 - (A) 66 years of age or older if the individual was born on or before December 31, 1959; or
 - (B) 67 years of age or older if the individual was born on or after January 1, 1960.
 - (b) Notwithstanding Subsection (1)(a), "claimant" includes a surviving spouse:
 - (i) regardless of:
 - (A) the age of the surviving spouse; or
 - (B) the age of the deceased spouse at the time of death;
 - (ii) if the surviving spouse meets the requirements of this part except for the age requirement;
 - (iii) if the surviving spouse is part of the same household of the deceased spouse at the time of death of the deceased spouse; and
 - (iv) if the surviving spouse is unmarried at the time the surviving spouse files the claim.
 - (c) If two or more individuals of a household are able to meet the qualifications for a claimant, they may determine among them as to who the claimant shall be, but if they are unable to agree, the matter shall be referred to the county legislative body for a determination of the claimant of an owned residence and to the commission for a determination of the claimant of a rented residence.
- (2)
 - (a) "Gross rent" means rent actually paid in cash or its equivalent solely for the right of occupancy, at arm's-length, of a residence, exclusive of charges for any utilities, services, furniture, furnishings, or personal appliances furnished by the landlord as a part of the rental agreement.
 - (b) If a claimant occupies two or more residences in the year and does not own the residence as of the lien date, "gross rent" means the total rent paid for the residences during the one-year period for which the renter files a claim under this part.
- (3)
 - (a) "Homeowner" means:
 - (i) an individual whose name is listed on the deed of a residence; or
 - (ii) if a residence is owned in a qualifying trust, an individual who is a grantor, trustor, or settlor or holds another similar role in the trust.
 - (b) "Homeowner" does not include:
 - (i) if a residence is owned by any type of entity other than a qualifying trust, an individual who holds an ownership interest in that entity; or
 - (ii) an individual who is listed on a deed of a residence along with an entity other than a qualifying trust.
- (4) "Homeowner's credit" means a credit against a claimant's property tax liability.
- (5) "Household" means the association of individuals who live in the same dwelling, sharing the dwelling's furnishings, facilities, accommodations, and expenses.
- (6) "Household income" means all income received by all members of a claimant's household in:

- (a) for a claimant who owns a residence, the calendar year preceding the calendar year in which property taxes are due; or
 - (b) for a claimant who rents a residence, the year for which a claim is filed.
- (7)
- (a)
 - (i) "Income" means the sum of:
 - (A) federal adjusted gross income as defined in Section 62, Internal Revenue Code; and
 - (B) all nontaxable income as defined in Subsection (7)(b).
 - (ii) "Income" does not include:
 - (A) aid, assistance, or contributions from a tax-exempt nongovernmental source;
 - (B) surplus foods;
 - (C) relief in kind supplied by a public or private agency; or
 - (D) relief provided under this part or Part 18, Tax Deferral and Tax Abatement.
 - (b) For purposes of Subsection (7)(a)(i), "nontaxable income" means amounts excluded from adjusted gross income under the Internal Revenue Code, including:
 - (i) capital gains;
 - (ii) loss carry forwards claimed during the taxable year in which a claimant files for relief under this part or Part 18, Tax Deferral and Tax Abatement;
 - (iii) depreciation claimed pursuant to the Internal Revenue Code by a claimant on the residence for which the claimant files for relief under this part or Part 18, Tax Deferral and Tax Abatement;
 - (iv) support money received;
 - (v) nontaxable strike benefits;
 - (vi) cash public assistance or relief;
 - (vii) the gross amount of a pension or annuity, including benefits under the Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq., and veterans disability pensions;
 - (viii) payments received under the Social Security Act;
 - (ix) state unemployment insurance amounts;
 - (x) nontaxable interest received from any source;
 - (xi) workers' compensation;
 - (xii) the gross amount of "loss of time" insurance; and
 - (xiii) voluntary contributions to a tax-deferred retirement plan.
- (8)
- (a) "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest, and charges for service, levied on 35% of the fair market value, as reflected on the assessment roll, of a claimant's residence in this state.
 - (b) For a mobile home, "property taxes accrued" includes taxes imposed on both the land upon which the home is situated and on the structure of the home itself, whether classified as real property or personal property taxes.
 - (c) The relief described in Subsection (8)(a) constitutes:
 - (i) a tax abatement for the poor in accordance with Utah Constitution, Article XIII, Section 3; and
 - (ii) the residential exemption provided for in Section 59-2-103.
 - (d)
 - (i) For purposes of this Subsection (8), property taxes accrued are levied on the lien date.
 - (ii) If a claimant owns a residence on the lien date, property taxes accrued mean taxes levied on the lien date, even if that claimant does not own a residence for the entire year.

- (e) When a household owns and occupies two or more different residences in this state in the same calendar year, property taxes accrued shall relate only to the residence occupied on the lien date by the household as the household's principal place of residence.
- (f)
 - (i) If a residence is an integral part of a large unit such as a farm or a multipurpose or multidwelling building, property taxes accrued shall be calculated on the percentage that the value of the residence is of the total value of the unit.
 - (ii) For purposes of this Subsection (8)(f), "unit" refers to the parcel of property covered by a single tax statement of which the residence is a part.
- (9) "Qualifying trust" means a trust holding title to real or tangible personal property for which an individual:
 - (a) makes a claim under this part;
 - (b) proves to the satisfaction of the county that title to the portion of the trust will revert in the individual upon the exercise of a power:
 - (i) by:
 - (A) the individual as grantor, trustor, settlor, or in another similar role of the trust;
 - (B) a nonadverse party; or
 - (C) both the individual and a nonadverse party; and
 - (ii) regardless of whether the power is a power:
 - (A) to revoke;
 - (B) to terminate;
 - (C) to alter;
 - (D) to amend; or
 - (E) to appoint; and
 - (c) is obligated to pay the taxes on that portion of the trust property beginning January 1 of the year the individual makes the claim.
- (10)
 - (a) As used in this section, "rental assistance payment" means any payment that:
 - (i) is made by a:
 - (A) governmental entity;
 - (B) charitable organization; or
 - (C) religious organization; and
 - (ii) is specifically designated for the payment of rent of a claimant:
 - (A) for the calendar year for which the claimant seeks a renter's credit under this part; and
 - (B) regardless of whether the payment is made to the:
 - (I) claimant; or
 - (II) landlord.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the terms:
 - (i) "governmental entity";
 - (ii) "charitable organization"; or
 - (iii) "religious organization."
- (11)
 - (a)
 - (i) "Residence" means the dwelling, whether owned or rented, and so much of the land surrounding the dwelling, not exceeding one acre, as is reasonably necessary for use of the dwelling as a home.
 - (ii) "Residence" includes a dwelling that is:

- (A) a part of a multidwelling or multipurpose building and a part of the land upon which the multidwelling or multipurpose building is built; and
- (B) a mobile home or houseboat.
- (b) "Residence" does not include personal property such as furniture, furnishings, or appliances.
- (c) For purposes of this Subsection (11), "owned" includes a vendee in possession under a land contract or one or more joint tenants or tenants in common.