

1                                   **PROPERTY TAX - HOMEOWNER'S CREDIT**

2   1998 GENERAL SESSION

3   STATE OF UTAH

4   **Sponsor: David M. Jones**

5 AN ACT RELATING TO THE PROPERTY TAX ACT; PROVIDING THAT THE  
6 HOMEOWNER'S CREDIT IS EQUAL TO THE AMOUNT BY WHICH A CLAIMANT'S  
7 PROPERTY TAX LIABILITY EXCEEDS A CERTAIN PERCENTAGE OF THE  
8 CLAIMANT'S HOUSEHOLD INCOME; MAKING TECHNICAL CHANGES; AND  
9 PROVIDING AN EFFECTIVE DATE.

10 This act affects sections of Utah Code Annotated 1953 as follows:

11 AMENDS:

12           **59-2-1202**, as last amended by Chapters 23 and 313, Laws of Utah 1997

13           **59-2-1208**, as last amended by Chapter 313, Laws of Utah 1997

14           **59-2-1209**, as last amended by Chapter 313, Laws of Utah 1997

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

16           Section 1. Section **59-2-1202** is amended to read:

17           **59-2-1202. Definitions.**

18           As used in this part:

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

20           (i) has filed a claim under this part;

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

23           (iii) has reached the age of 65 prior to the close of that calendar year.

24           (b) A surviving spouse, who otherwise qualifies under this section, is an eligible claimant  
25 regardless of age.

26           (c) If two or more individuals of a household are able to meet the qualifications for a  
27 claimant, they may determine among them as to who the claimant shall be, but if they are unable

1 to agree, the matter shall be referred to the county legislative body for a determination of the  
2 claimant of an owned residence and to the commission for a determination of the claimant of a  
3 rented residence.

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

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

11 (3) "Homeowner's credit" means a credit:

12 (a) against a claimant's property tax liability[-]; and

13 (b) in an amount equal to the amount by which the claimant's property tax liability exceeds  
14 the percentage of the claimant's household income provided in Subsection 59-2-1208 (1)(a).

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

17 (5) "Household income" means all income received by all persons of a household in the  
18 calendar year next preceding the year in which property taxes are due or, in the case of renters, the  
19 year in which a claim is filed.

20 (6) (a) (i) "Income" means federal adjusted gross income as defined in Section 62, Internal  
21 Revenue Code, plus all nontaxable income as defined in Subsection (6)(b).

22 (ii) "Income" does not include:

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

24 (B) surplus foods;

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

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

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

29 (i) capital gains;

30 (ii) loss carry forwards claimed during the taxable year in which a claimant files for relief  
31 under this part, Section 59-2-1108, or Section 59-2-1109;

1 (iii) depreciation claimed pursuant to the Internal Revenue Code by a claimant on the  
2 residence for which the claimant files for relief under this part, Section 59-2-1108, or Section  
3 59-2-1109;

4 (iv) support money received;

5 (v) nontaxable strike benefits;

6 (vi) cash public assistance or relief;

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

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

10 (ix) state unemployment insurance amounts;

11 (x) nontaxable interest received from any source;

12 (xi) workers' compensation;

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

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

15 (7) (a) "Property taxes accrued" means property taxes, exclusive of special assessments,  
16 delinquent interest, and charges for service, levied on a claimant's residence in this state, and in  
17 the case of a mobile home includes taxes imposed on both the land upon which the home is  
18 situated and also on the structure of the home itself, whether classified as real property or personal  
19 property taxes.

20 (b) For purposes of this subsection property taxes accrued are levied on the lien date. If  
21 a claimant owns a residence on the lien date, property taxes accrued mean taxes levied on the lien  
22 date, even if that claimant does not own a residence for the entire year.

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

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

29 (ii) For purposes of this subsection, "unit" refers to the parcel of property covered by a  
30 single tax statement of which the residence is a part.

31 (8) (a) "Residence" means the dwelling, whether owned or rented, and so much of the land

1 surrounding it, not exceeding one acre, as is reasonably necessary for use of the dwelling as a  
2 home, and may consist of a part of a multidwelling or multipurpose building and a part of the land  
3 upon which it is built and includes a mobile home or houseboat.

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

6 (c) For purposes of this subsection, "owned" includes a vendee in possession under a land  
7 contract or one or more joint tenants or tenants in common.

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

9 **59-2-1208. Amount of homeowner's credit -- Cost-of-living adjustment -- Limitation**  
10 **-- General Fund as source of credit.**

11 (1) (a) For taxable years beginning on or after January 1, 1998, a claimant is entitled to a  
12 homeowner's credit [~~that does not exceed the following amounts~~] as follows:

| 13 If household income is: | Homeowner's credit <u>equals the</u><br>14 <u>amount of property tax liability</u><br>15 <u>that exceeds the following</u><br>16 <u>percentages of household income:</u> |
|----------------------------|--|
| 17 \$0 -- \$7,358          | [ <del>\$577</del> ] <u>1%</u>   |
| 18 \$7,359 -- \$9,812      | [ <del>\$504</del> ] <u>1.4%</u>   |
| 19 \$9,813 -- \$12,264     | [ <del>\$432</del> ] <u>1.8%</u>   |
| 20 \$12,265 -- \$14,717    | [ <del>\$324</del> ] <u>2.2%</u>   |
| 21 \$14,718 -- \$17,171    | [ <del>\$252</del> ] <u>2.6%</u>   |
| 22 \$17,172 -- \$19,479    | [ <del>\$144</del> ] <u>3%</u>   |
| 23 \$19,480 -- \$21,644    | [ <del>\$71</del> ] <u>3.4%</u>  |

24 (b) (i) For taxable years beginning on or after January 1, 1999, the commission shall  
25 increase or decrease the household income eligibility amounts [~~and the credits~~] under Subsection  
26 (1)(a) in a percentage equal to the percentage difference between the consumer price index for the  
27 preceding calendar year and the consumer price index for calendar year 1997.

28 (ii) For purposes of Subsection (1)(b)(i), the commission shall calculate the consumer  
29 price index as provided in Sections (1)(f)(4) and (1)(f)(5), Internal Revenue Code.

30 (2) An individual who is claimed as a personal exemption on another individual's return  
31 may not receive a homeowner's credit.

1 (3) The homeowner's credit allowed by this section, and provided for in Section  
 2 59-2-1204, shall be derived from the General Fund and appropriate transfers made to effectuate  
 3 this credit.

4 Section 3. Section **59-2-1209** is amended to read:

5 **59-2-1209. Amount of renter's credit -- Cost-of-living adjustment -- Limitation --**  
 6 **General Fund as source of credit.**

7 (1) (a) For any taxable year a claimant is entitled to a renter's credit for the previous year  
 8 that does not exceed the following amounts:

| 9 If household income is: | 10 Percentage of rent constituting<br>property taxes accrued allowed as a credit: |
|---------------------------|---|
| 11 \$0 -- \$7,358         | 9.5%  |
| 12 \$7,359 -- \$9,812     | 8.5%  |
| 13 \$9,813 -- \$12,264    | 7.0%  |
| 14 \$12,265 -- \$14,717   | 5.5%  |
| 15 \$14,718 -- \$17,171   | 4.0%  |
| 16 \$17,172 -- \$19,479   | 3.0%  |
| 17 \$19,480 -- \$21,644   | 2.5%  |

18 (b) (i) For taxable years beginning on or after January 1, 1999, the commission shall  
 19 increase or decrease the household income eligibility amounts under Subsection (1)(a) in a  
 20 percentage equal to the percentage difference between the consumer price index for the preceding  
 21 calendar year and the consumer price index for calendar year 1997.

22 (ii) For purposes of Subsection (1)(b)(i), the commission shall calculate the consumer  
 23 price index as provided in Sections (1)(f)(4) and (1)(f)(5), Internal Revenue Code.

24 (2) An individual who is claimed as a personal exemption on another individual's return  
 25 may not receive a renter's credit.

26 (3) The renter's credit allowed by this section, and provided for in Section 59-2-1204, shall  
 27 be derived from the General Fund and appropriate transfers made to effectuate this credit.

28 [~~(4) For taxable years beginning on or after January 1, 1998, a credit under this section may~~  
 29 ~~not exceed the maximum amount allowed as a homeowner's credit for each income bracket under~~  
 30 ~~Subsection 59-2-1208(1)(a).]~~

31 Section 4. **Effective date.**

1           This act takes effect on January 1, 1999.

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**Legislative Review Note**  
**as of 1-22-98 10:56 AM**

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**