

1                                   **PROPERTY TAX - CIRCUIT BREAKER**

2   **ELIGIBILITY**

3   1998 GENERAL SESSION

4   STATE OF UTAH

5   **Sponsor: John W. Hickman**

6 AN ACT RELATING TO THE PROPERTY TAX ACT; EXPANDING THE CIRCUIT  
7 BREAKER TAX RELIEF THAT A COUNTY LEGISLATIVE BODY MAY GRANT TO A  
8 CLAIMANT'S SURVIVING SPOUSE; MAKING TECHNICAL CHANGES; AND  
9 PROVIDING FOR RETROSPECTIVE OPERATION.

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

11 AMENDS:

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

13                   **59-2-1207**, as last amended by Chapter 227, Laws of Utah 1993

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

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

16                   **59-2-1202. Definitions.**

17                   As used in this part:

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

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

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

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

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

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

1 claimant of an owned residence and to the commission for a determination of the claimant of a  
2 rented residence.

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

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

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

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

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

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

18 (ii) "Income" does not include:

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

20 (B) surplus foods;

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

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

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

25 (i) capital gains;

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

28 (iii) depreciation claimed pursuant to the Internal Revenue Code by a claimant on the  
29 residence for which the claimant files for relief under this part, Section 59-2-1108, or Section  
30 59-2-1109;

31 (iv) support money received;

- 1 (v) nontaxable strike benefits;
- 2 (vi) cash public assistance or relief;
- 3 (vii) the gross amount of a pension or annuity, including benefits under the Railroad  
4 Retirement Act of 1974, 45 U.S.C. Sec. 231, and veterans disability pensions;
- 5 (viii) payments received under the Social Security Act;
- 6 (ix) state unemployment insurance amounts;
- 7 (x) nontaxable interest received from any source;
- 8 (xi) workers' compensation;
- 9 (xii) the gross amount of "loss of time" insurance; and
- 10 (xiii) voluntary contributions to a tax-deferred retirement plan.

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

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

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

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

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

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

31 (b) "Residence" does not include personal property such as furniture, furnishings, or

1 appliances.

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

4 Section 2. Section **59-2-1207** is amended to read:

5 **59-2-1207. Claim applied against tax liability -- One claimant per household per**  
6 **year.**

7 (1) The amount of any claim otherwise payable under this part may be applied by the  
8 commission against any liability outstanding on the books of the commission against the claimant,  
9 or against a spouse who was a member of the claimant's household in the year to which the claim  
10 relates.

11 (2) Only one claimant per household per year is entitled to payment under this part.

12 (3) The amount of any homeowner's credit otherwise allowable under this part may be  
13 applied by the county against any property tax liability outstanding on the books of the county  
14 against the claimant, or against a spouse who was a member of the claimant's household in the year  
15 to which the claim relates.

16 (4) A county legislative body shall provide a credit under this part to a claimant's surviving  
17 spouse, regardless of age, who has subsequently remarried and the marriage terminates for any  
18 reason if the county legislative body finds that:

19 (a) the surviving spouse's subsequent remarriage was of limited duration;

20 (b) the surviving spouse did not acquire a substantial financial benefit as a result of the  
21 remarriage;

22 (c) the surviving spouse was not awarded as a result of the subsequent remarriage:

23 (i) alimony under Section 30-3-5;

24 (ii) child support under Section 30-3-5; or

25 (iii) a combination of Subsections (4)(c)(i) and (ii);

26 (d) denial of the credit would impose an undue hardship on the surviving spouse; and

27 (e) the surviving spouse meets all of the requirements provided in this part for claiming  
28 a homeowner's credit except for the age requirement.

29 Section 3. **Retrospective operation.**

30 This act has retrospective operation to January 1, 1998.

**Legislative Review Note**  
**as of 1-29-98 12:13 PM**

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

**Office of Legislative Research and General Counsel**