

**PROPERTY TAX RELIEF AMENDMENTS**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: Bradley A. Winn**

**This act modifies the Property Tax Act to address property tax exemptions, abatements, and other tax relief. This act gives to the county legislative body the authority to determine who performs functions given to the county. The act requires a county under certain circumstances to make refunds to persons granted property tax relief. This act addresses extensions of filing deadlines. This act addresses tax relief claimed for disabled veterans or related persons, tax relief claimed by blind persons or related persons, and tax relief for indigent persons. This act clarifies the relationship between different property tax relief. This act addresses the process of applying for the homeowner's credit. The act makes technical changes.**

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

AMENDS:

- 59-2-1101**, as last amended by Chapter 86, Laws of Utah 2000
- 59-2-1104**, as last amended by Chapter 354, Laws of Utah 1999
- 59-2-1105**, as last amended by Chapter 354, Laws of Utah 1999
- 59-2-1106**, as last amended by Chapter 87, Laws of Utah 1996
- 59-2-1107**, as last amended by Chapter 195, Laws of Utah 1998
- 59-2-1108**, as last amended by Chapter 227, Laws of Utah 1993
- 59-2-1109**, as last amended by Chapter 86, Laws of Utah 2000
- 59-2-1203**, as renumbered and amended by Chapter 4, Laws of Utah 1987
- 59-2-1206**, as last amended by Chapters 20 and 309, Laws of Utah 1998
- 59-2-1207**, as last amended by Chapter 20, Laws of Utah 1998
- 59-2-1211**, as renumbered and amended by Chapter 4, Laws of Utah 1987
- 59-2-1214**, as last amended by Chapter 227, Laws of Utah 1993
- 59-2-1215**, as last amended by Chapter 227, Laws of Utah 1993
- 59-2-1219**, as last amended by Chapter 227, Laws of Utah 1993

**59-2-1220**, as last amended by Chapter 20, Laws of Utah 1998

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

Section 1. Section **59-2-1101** is amended to read:

**59-2-1101. Exemption of property devoted to public, religious, or charitable uses -- Proportional payments for government-owned property -- Intangibles exempt -- Signed statement required -- County legislative body authority to adopt rules or ordinances.**

(1) The exemptions, deferrals, and abatements authorized by this part may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed, unless the claimant is a federal, state, or political subdivision entity under Subsection (2)(a), (b), or (c), in which case the entity shall collect and pay a proportional tax based upon the length of time that the property was not owned by the entity.

(2) The following property is exempt from taxation:

- (a) property exempt under the laws of the United States;
- (b) property of the state, school districts, and public libraries;
- (c) property of counties, cities, towns, special districts, and all other political subdivisions of the state, except as provided in Title 11, Chapter 13, ~~[the]~~ Interlocal Cooperation Act;
- (d) property owned by a nonprofit entity which is used exclusively for religious, charitable, or educational purposes;
- (e) places of burial not held or used for private or corporate benefit;
- (f) farm equipment and machinery; and
- (g) intangible property.

(3) (a) The owner who receives exempt status for property, if required by the commission, shall file a signed statement, on or before March 1 each year, certifying the use to which the property has been placed during the past year. The signed statement shall contain the following information in summary form:

- (i) identity of the individual who signed the statement;
- (ii) the basis of the signer's knowledge of the use of the property;
- (iii) authority to make the signed statement on behalf of the owner;

(iv) county where property is located; and

(v) nature of use of the property.

(b) If the signed statement is not filed within the time limits prescribed by the county [~~board of equalization~~], the exempt status may, after notice and hearing, be revoked and the property then placed on the tax rolls.

(4) The county legislative body may adopt rules or ordinances to:

(a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided in this part[-]; and

(b) designate one or more persons to perform the functions given the county under this part.

Section 2. Section **59-2-1104** is amended to read:

**59-2-1104. Exemption of property owned by disabled veterans or their unmarried surviving spouses and minor orphans -- Amount of exemption.**

(1) As used in this section, "residence" is as defined in Section 59-2-1202, except that a rented dwelling is not considered to be a residence.

(2) (a) Subject to Section 59-2-1105, including the reduction provided for in Subsection 59-2-1105(5)(b), the first \$82,500 of taxable value of the property described in Subsection (2)(b) is exempt from taxation if the residence is owned by:

(i) a person who:

(A) is less than 100% disabled; and

(B) was disabled in the line of duty during any war, international conflict, or military training in the military service of the United States or of this state; or

(ii) the [~~unremarried~~] unmarried surviving spouse and minor orphans of any person described in Subsection (2)(a)(i), or of a person who, during any war, international conflict, or military training in the military service of the United States or of this state, was killed in action or died in the line of duty as a result of the military service.

(b) Subsection (2)(a) applies to the following property:

(i) a residence;

(ii) tangible personal property; or

(iii) a combination of Subsections (2)(b)(i) and (ii).

(3) (a) Subject to Section 59-2-1105, the first \$82,500 of the total taxable value of property described in Subsection (3)(b) is exempt from taxation if the property is owned by:

(i) a person who:

(A) is 100% disabled; and

(B) was disabled in the line of duty during any war, international conflict, or military training in the military service of the United States or of this state; or

(ii) the ~~unremarried~~ unmarried surviving spouse and minor orphans of any person described in Subsection (3)(a)(i), or of a person who, during any war, international conflict, or military training in the military service of the United States or of this state, was killed in action or died in the line of duty as a result of the military service.

(b) Subsection (3)(a) applies to the following property:

(i) real property, including a residence;

(ii) tangible personal property; or

(iii) a combination of Subsections (3)(b)(i) and (ii).

Section 3. Section **59-2-1105** is amended to read:

**59-2-1105. Application for disabled veteran's exemption -- Proof requirements --**

**Limitations on exemption -- County authority to make refunds.**

(1) (a) The exemptions authorized by Section 59-2-1104 may be allowed only if the interest of the claimant is on record on January 1 of the year the exemption is claimed.

(b) If the claimant has an interest in real property under a contract, the exemption under Section 59-2-1104 may be allowed if it is proved to the satisfaction of the county [~~legislative body~~] that the claimant is:

(i) the purchaser under the contract; and [is]

(ii) obligated to pay the taxes on the property beginning January 1 of [that] the year the exemption is claimed.

(2) (a) On or before September 1 each year, any person applying for a veteran's exemption shall file an application with the county [~~legislative body of the county~~] in which that person resides.

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

~~[(b) A]~~ (c) The following shall accompany the initial application for exemption:

(i) a copy of the veteran's certificate of discharge from the military service of:

(A) the United States; or ~~[of]~~

(B) this state; or

(ii) other satisfactory evidence of eligible military service~~[, shall accompany the initial application for exemption].~~

(3) If the application is made by a veteran who served in the military of the United States or of this state prior to January 1, 1921, or by the ~~[unremarried]~~ unmarried surviving spouse or minor orphan of that veteran, a certificate from the Department of Veterans Affairs, or from any other source required by the county ~~[legislative body]~~, showing the percentage of disability of the veteran shall accompany the application.

(4) Any application made by a veteran who served in the military service of the United States or of this state on or after January 1, 1921, or by the ~~[unremarried]~~ unmarried surviving spouse or minor orphan of that veteran, shall be accompanied by a certificate from the Department of Veterans Affairs, or from any other source required by the county ~~[legislative body]~~, showing the percentage of disability incurred or aggravated in the line of duty during any war, international conflict, or military training in the military service of the United States or of this state.

(5) (a) If the veteran is 100% disabled, the veteran's property tax exemption is as provided in Subsection 59-2-1104(3).

(b) If the certificate under this section shows a lesser percentage of disability, the exemption allowed under Subsection 59-2-1104(2) is that percentage of \$82,500, except that ~~[no]~~ an exemption ~~[is]~~ may not be allowed for any disability below 10%.

(6) The ~~[unremarried]~~ unmarried surviving spouse and minor orphans of a deceased veteran are entitled to the greater of:

(a) the full exemption if the veteran's disability was 10% or more and the veteran served prior to January 1, 1921; or

(b) the same exemption to which the disabled veteran would have been entitled, if the veteran served on or after January 1, 1921.

~~[(7) The county legislative body may adopt rules to effectuate the exemptions from taxation under Section 59-2-1104.]~~

(7) (a) For purposes of this Subsection (7):

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

(A) for which an exemption is granted by a county under Section 59-2-1104; and

(B) for the calendar year for which the exemption is granted.

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

(A) the amount of the property taxes the person paid for the taxable year for which the person is applying for the exemption; and

(B) the amount of tax the county exempts under Section 59-2-1104.

(b) A county granting an exemption to a person under Section 59-2-1104 shall refund to that person an amount equal to the amount by which the person's property taxes paid exceed the person's property taxes due, if that amount is \$1 or more.

Section 4. Section **59-2-1106** is amended to read:

**59-2-1106. Exemption of property owned by blind persons or their unmarried surviving spouses or minor orphans -- Amount -- Application -- County authority to make refunds.**

(1) ~~[The]~~ Subject to Subsections (2) and (3), the first \$11,500 of taxable value of real and tangible personal property in this state owned by the following is exempt from taxation:

(a) a blind ~~[persons, their unmarried]~~ person;

(b) the unmarried surviving ~~[spouses,]~~ spouse of a blind person; or ~~[their]~~

(c) a minor ~~[orphans is exempt from taxation, subject to Subsections (2) and (3)] orphan of a blind person.~~

(2) (a) Every person ~~[applying for]~~ claiming the exemption ~~[for the blind]~~ under Subsection (1) shall ~~[, on or before September 1 in each year,]~~ file an application;

(i) on or before September 1 in each year; and

(ii) with the county [~~executive of the county~~] in which the person resides.

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

(3) The first year's application shall be accompanied by a statement signed by a licensed ophthalmologist verifying that the person:

(a) has no more than 20/200 visual acuity in the better eye when corrected; or

(b) has, in the case of better than 20/200 central vision, a restriction of the field of vision in the better eye which subtends an angle of vision no greater than 20 degrees.

(4) (a) For purposes of this Subsection (4):

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

(A) for which an exemption is granted by a county under this section; and

(B) for the calendar year for which the exemption is granted.

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

(A) the amount of the property taxes the person paid for the taxable year for which the person is applying for the exemption; and

(B) the amount of tax the county exempts under this section.

(b) A county granting an exemption to a person under this section shall refund to that person an amount equal to the amount by which the person's property taxes paid exceed the person's property taxes due, if that amount is \$1 or more.

Section 5. Section **59-2-1107** is amended to read:

**59-2-1107. Indigent persons -- Amount of abatement.**

The county [~~executive~~] may remit or abate the taxes of any poor person meeting the requirements of Section 59-2-1109 in an amount not exceeding the lesser of:

(1) the amount provided as a homeowner's credit for the lowest household income bracket under Section 59-2-1208; or

(2) 50% of the total tax [~~assessed~~] levied for the current year.

Section 6. Section **59-2-1108** is amended to read:

**59-2-1108. Indigent persons -- Deferral of taxes -- Treatment of deferred taxes.**

(1) (a) The county [~~board of equalization~~] may, after giving notice, defer any tax levied on residential property, subject to the conditions of Section 59-2-1109.

(b) If the owner of [~~that~~] the property described in Subsection (1)(a) is poor, the property may not be subjected to a tax sale during the period of deferment.

(2) (a) Taxes deferred by the [~~board of equalization~~] county accumulate with interest as a lien against the property until the property is sold or otherwise disposed of.

(b) Deferred taxes bear interest at the rate of 6% per year and have the same status as a lien under Sections 59-2-1301 and 59-2-1325.

(3) Deferral may be granted by the county [~~legislative body~~] at any time if:

(a) the holder of any mortgage or trust deed outstanding on the property gives written approval of the application; and

(b) the applicant is not the owner of income producing assets [~~which~~] that could be liquidated to pay the tax.

(4) Any assets transferred to relatives in the prior three-year period shall be considered by the county [~~legislative body~~] in making [~~its~~] the county's determination.

Section 7. Section **59-2-1109** is amended to read:

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

(1) [~~No~~] A person under the age of 65 years is not eligible for [~~tax relief;~~] a deferral[;] or abatement provided for poor people under Sections 59-2-1107 and 59-2-1108 unless:

(a) the county [~~legislative body~~] finds that extreme hardship would prevail if the grants were not made; or

(b) the person is disabled.

(2) (a) An application for the [~~exemption~~] deferral or abatement shall be filed on or before September 1 with the county [~~legislative body of the county~~] in which the property is located. [~~The application shall set forth adequate facts to support the person's eligibility to receive the exemption.~~]

[~~(a)~~] (b) The application shall include a signed statement setting forth the eligibility of the applicant for the [~~exemption~~] deferral or abatement.



~~[(b)]~~ (c) Both husband and wife shall sign the application if ~~[they]~~ the husband and wife seek [an exemption] a deferral or abatement on a residence;

- (i) in which they both reside; and
- (ii) which they own as joint tenants.

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

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

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

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

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

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

(A) the amount of the property taxes the person paid for the taxable year for which the person is applying for the abatement; and

(B) the amount of the abatement the county grants under Section 59-2-1107.

(b) A county granting an abatement to a person under Section 59-2-1107 shall refund to that person an amount equal to the amount by which the person's property taxes paid exceed the person's property taxes due, if that amount is \$1 or more.

~~[(3)]~~ (4) For purposes of this section:

(a) ~~[A]~~ a poor person is any person:

(i) whose total household income as defined in Section 59-2-1202 is less than the maximum household income certified to a homeowner's credit under Subsection 59-2-1208(1);

(ii) who resides for not less than ten months of each year in the residence for which the tax relief, deferral, or abatement is requested; and

(iii) who is unable to meet the tax assessed on the person's residential property as the tax becomes due~~[-];~~ and

(b) ~~["Residence"]~~ "residence" includes a mobile home as defined under Section 59-2-601.

~~[(4)]~~ (5) The commission shall adopt rules to implement this section.

~~[(5)]~~ (6) Any poor person may qualify for;

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

(c) both~~[,]~~:

(i) the deferral described in Subsection (6)(a); and

(ii) the abatement described in Subsection (6)(b).

Section 8. Section **59-2-1203** is amended to read:

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

(1) (a) The right to file a claim under this part is personal to the claimant ~~[and]~~.

(b) The right to file a claim does not survive the claimant's death~~[, but this]~~.

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

(i) a legal guardian of the claimant; or

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

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

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

(3) The amount described in Subsection 59-2-1202(7)(b)(i) is in addition to any other exemption or reduction for which a homeowner may be eligible, including the homeowner's credit provided for in Section 59-2-1206.

Section 9. Section **59-2-1206** is amended to read:

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

(1) (a) ~~[Except as provided in Subsection (1)(d), a]~~ A claimant applying for a homeowner's credit shall annually file an application for the credit with the county ~~[legislative body]~~ before September 1.

(b) The application under this section shall:

(i) be on forms provided by:

(A) the commission; or

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

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

(A) the income statement is correct; and

(B) the claimant qualifies for the credit.

(c) (i) Subject to ~~[the provisions of Subsections]~~ Subsection (1)(c)(ii) ~~[and (1)(c)(iii)]~~, a county ~~[or the commission]~~ shall ~~[reduce a claimant's property tax liability]~~ apply the credit in accordance with this section and Section 59-2-1207 for the year in which the claimant applies for a homeowner's credit if the claimant meets the criteria for obtaining a homeowner's credit as provided in this part.

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

~~[(iii) Except as provided in Section 59-2-1220, a county or the commission may not apply a homeowner's credit under this part against a property tax liability that is more than 90 days delinquent.]~~

~~[(d) An eligible claimant who fails to submit an application before the September 1 deadline may request reimbursement for allowable credit by filing the application form directly with the commission on or before December 31.]~~

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

(2) (a) (i) The county ~~[legislative body]~~ shall compile a list of claimants and the homeowner's credits granted to the claimants for purposes of obtaining payment from the General Fund for the amount of credits granted.

(ii) A county ~~[legislative body]~~ may not obtain payment from the General Fund for the ~~[reduction in fair market value provided for]~~ amount described in Subsection 59-2-1202(7).

(b) Upon certification by the commission the payment for the credits under this Subsection

(2) shall be made to the county on or before January 1 if the list of claimants and the credits granted are received by the commission on or before November 30 of the year in which the credits under this part are granted.

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

Section 10. Section **59-2-1207** is amended to read:

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

(1) [~~The commission or a~~ A county [~~may~~] shall apply as provided in Subsection 59-2-1206(1)(c) the amount of a credit under this part against:

(a) a claimant's property tax liability; or

(b) [~~against~~] the property tax liability of a spouse who was a member of the claimant's household in the year in which the claimant applies for a homeowner's credit under this part.

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

Section 11. Section **59-2-1211** is amended to read:

**59-2-1211. Commission to provide forms and instructions -- County may prepare forms and instructions -- County legislative body authority to adopt rules or ordinances.**

(1) The commission shall prescribe and make available suitable forms and instructions for:

(a) claimants; and [~~county governing bodies.~~]

(b) counties.

(2) A county is not required to use the forms and instructions prescribed by the commission under Subsection (1) if the county prepares suitable forms and instructions for a claimant consistent with:

(a) this chapter; and

(b) rules adopted by the commission.

(3) The county legislative body may adopt rules or ordinances to:

(a) effectuate the property tax relief under this part; and

(b) designate one or more persons to perform the functions given the county under this part.

Section 12. Section **59-2-1214** is amended to read:

**59-2-1214. Redetermination of claim by commission or county.**

(1) If, on the audit of any claim filed under this part, the commission or the county ~~[legislative body]~~ determines the amount has been incorrectly determined, the commission or the county ~~[legislative body]~~ shall:

(a) redetermine the claim; and

(b) notify the claimant of the redetermination and its reason for the redetermination.

(2) The redetermination provided in Subsection (1)(a) shall be final unless appealed within 30 days after ~~[this]~~ the notice required by Subsection (1)(b).

Section 13. Section **59-2-1215** is amended to read:

**59-2-1215. Fraudulent or negligently prepared claim -- Penalties and interest -- Procedure.**

(1) (a) If the commission or the county ~~[legislative body]~~ determines that a claim is excessive and was filed with fraudulent intent~~[-]~~:

(i) the claim shall be disallowed in full~~[-]~~;

(ii) the credit shall be cancelled~~[-, and]~~;

(iii) the amount paid or claimed ~~[may]~~ shall be recovered by assessment~~[-]~~; and

(iv) the assessment provided for in Subsection (1)(a)(iii) shall bear interest:

(A) from the date of the claim~~[-]~~;

(B) until refunded or paid~~[-]~~; and

(C) at the rate of 1% per month.

(b) The claimant, and any person who assists in the preparation or filing of an excessive claim or supplies information upon which an excessive claim was prepared, with fraudulent intent, is guilty of a class A misdemeanor.

(2) If the commission or the county ~~[legislative body]~~ determines that a claim is excessive and negligently prepared~~[-]~~:

(a) 10% of the corrected claim shall be disallowed~~[-]~~;

(b) the proper portion of any amount paid shall be similarly recovered by assessment~~[-]~~; and

(c) the assessment provided for in Subsection (2)(b) shall bear interest at 1% per month from the date of payment until refunded or paid.

Section 14. Section **59-2-1219** is amended to read:

**59-2-1219. Claim disallowed if residence obtained for purpose of receiving benefits.**

A claim shall be disallowed if the commission or county [~~legislative body~~] finds that the claimant received title to a residence primarily for the purpose of receiving benefits under this part.

Section 15. Section **59-2-1220** is amended to read:

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

(1) [~~In case of sickness, absence, or other disability, or if, in its judgment, good cause exists, the~~] The commission or a county [~~legislative body~~] may extend the time for filing a claim [for a period not to exceed six months] until December 31 of the year the claim is required to be filed, if the commission or county finds that good cause exists to extend the deadline.

~~[(2) Notwithstanding Subsection 59-2-1206(1)(c)(iii), if the commission or a county legislative body extends the time for filing a claim under Subsection (1), the commission or the county legislative body may apply a homeowner's credit under this part against a property tax liability that is more than 90 days delinquent.]~~

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

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

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

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

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

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

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

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

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

(b) A county or the commission granting an abatement or a credit to a claimant shall refund

to that claimant an amount equal to the amount by which the claimant's property taxes paid exceed the claimant's property taxes due, if that amount is \$1 or more.