

PROPERTY TAX RELIEF

2003 GENERAL SESSION

STATE OF UTAH

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This act modifies provisions relating to Property Tax Relief. The act amends the definition of household income and defines terms. The act amends provisions relating to eligibility to claim a homeowner's credit or renter's credit. This act makes technical changes. This act has retrospective operation to January 1, 2003.

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

AMENDS:

59-2-1202, as last amended by Chapter 221, Laws of Utah 2001

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

59-2-1209, as last amended by Chapter 309, Laws of Utah 1998

REPEALS:

59-2-1218, as renumbered and amended by Chapter 4, Laws of Utah 1987

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

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

59-2-1202. Definitions.

As used in this part:

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

(i) has filed a claim under this part;

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

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

(b) A surviving spouse, who otherwise qualifies under this section, is an eligible

claimant regardless of age.

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

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

(5) "Household income" means all income received by all persons of a household in:

(a) the calendar year [~~next~~] preceding the calendar year in which property taxes are due;

or

(b) [~~in the case of renters~~] for purposes of the renter's credit authorized by this part, the year [~~in~~] for which a claim is filed.

(6) (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 (6)(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, Section 59-2-1108, or Section 59-2-1109.

(b) For purposes of Subsection (6)(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, Section 59-2-1108, or Section 59-2-1109;

(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, Section 59-2-1108, or Section 59-2-1109;

(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.

(7) (a) "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest, and charges for service, levied on 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) (i) Beginning on January 1, 1999, for a claimant who owns a residence, "property taxes accrued" are the property taxes described in Subsection (7)(a) levied for the calendar year on 35% of the fair market value of the residence as reflected on the assessment roll.

(ii) The amount described in Subsection (7)(c)(i) constitutes:

(A) a tax abatement for the poor in accordance with Utah Constitution Article XIII, Section [2] 3; and

(B) the residential exemption provided for in Section 59-2-103.

(d) (i) For purposes of this Subsection (7) 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 its 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 the same percentage of the total property taxes accrued as the value of the residence is of the total value.

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

(8) (a) As used in this section, "rental assistance payment" means any payment that:

(i) is made by a:

(A) governmental entity; or

(B) (I) charitable organization; or

(II) 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; and

(b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

commission may make rules defining the terms:

- (i) "governmental entity";
- (ii) "charitable organization"; or
- (iii) "religious organization."

[~~(8)~~] (9) (a) "Residence" means the dwelling, whether owned or rented, and so much of the land surrounding it, not exceeding one acre, as is reasonably necessary for use of the dwelling as a home, and may consist of a part of a multidwelling or multipurpose building and a part of the land upon which it is built and includes a mobile home or houseboat.

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

(c) For purposes of this Subsection [~~(8)~~] (9), "owned" includes a vendee in possession under a land contract or one or more joint tenants or tenants in common.

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

59-2-1208. Amount of homeowner's credit -- Cost-of-living adjustment --

Limitation -- General Fund as source of credit.

(1) (a) [~~For taxable~~] Subject to Subsection (2), for calendar years beginning on or after January 1, 1998, a claimant [is entitled to] may claim a homeowner's credit that does not exceed the following amounts:

If household income is	Homeowner's credit
\$0 -- \$7,358	\$577
\$7,359 -- \$9,812	\$504
\$9,813 -- \$12,264	\$432
\$12,265 -- \$14,717	\$324
\$14,718 -- \$17,171	\$252
\$17,172 -- \$19,479	\$144
\$19,480 -- \$21,644	\$71

(b) (i) For [~~taxable~~] calendar years beginning on or after January 1, 1999, the commission shall increase or decrease the household income eligibility amounts and the credits

under Subsection (1)(a) ~~in~~ by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 1997.

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

(2) An individual who is claimed as a personal exemption on another individual's ~~return~~ individual income tax return during any portion of a calendar year for which the individual seeks to claim a homeowner's credit under this section may not receive ~~a~~ the homeowner's credit.

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

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

59-2-1209. Amount of renter's credit -- Cost-of-living adjustment -- Limitation -- General Fund as source of credit -- Maximum credit -- Renter's credit may be claimed only for rent that does not constitute a rental assistance payment.

(1) (a) ~~For any taxable year~~ Subject to Subsections (2) and (3), for any calendar year a claimant ~~is entitled to~~ may claim a renter's credit for the previous calendar year that does not exceed the following amounts:

If household income is	Percentage of rent
allowed as a credit	
\$0 -- \$7,358	9.5%
\$7,359 -- \$9,812	8.5%
\$9,813 -- \$12,264	7.0%
\$12,265 -- \$14,717	5.5%
\$14,718 -- \$17,171	4.0%
\$17,172 -- \$19,479	3.0%

\$19,480 -- \$21,644 2.5%

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

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

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

~~[(2)]~~ (3) An individual who is claimed as a personal exemption on another individual's ~~[return]~~ individual income tax return during any portion of a calendar year for which the individual seeks to claim a renter's credit under this section may not receive a renter's credit.

~~[(3)]~~ (4) The renter's credit allowed by this section, and provided for in Section 59-2-1204, shall be derived from the General Fund and appropriate transfers made to effectuate this credit.

~~[(4)]~~ (5) For ~~[taxable]~~ calendar years beginning on or after January 1, 1998, a credit under this section may not exceed the maximum amount allowed as a homeowner's credit for each income bracket under Subsection 59-2-1208(1)(a).

Section 4. Repealer.

This act repeals:

Section 59-2-1218, Recipients of public funds for payment of rent ineligible for refund.

Section 5. Retrospective operation.

This act has retrospective operation to January 1, 2003.