

**PROPERTY TAXES AND UNIFORM FEES - INTEREST RATES ON
DEFERRED OR DELINQUENT TAXES**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: LaVar Christensen

This act modifies the Property Tax Act to address the interest rates imposed on certain deferred or delinquent property taxes or uniform fees. This act makes technical changes.

This act takes effect on January 1, 2004.

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

AMENDS:

59-2-1108, as last amended by Chapters 221 and 310, Laws of Utah 2001

59-2-1302, as last amended by Chapter 86, Laws of Utah 2000

59-2-1331, as last amended by Chapter 143, Laws of Utah 1997

59-2-1347, as last amended by Chapter 181, Laws of Utah 1995

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

Section 1. Section **59-2-1108** is amended to read:

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

(1) (a) The county 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 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 county accumulate with interest as a lien against the property until the property is sold or otherwise disposed of.

(b) Deferred taxes under this section:

(i) bear interest at [the] an interest rate [of] equal to the lesser of:

(A) 6% [per year and]; or

(B) the targeted federal funds rate:

(I) as defined in 12 C.F.R. Sec. 201.2; and

(II) that exists on the January 1 immediately preceding the day on which the taxes are deferred; and

(ii) have the same status as a lien under Sections 59-2-1301 and 59-2-1325.

(3) Deferral may be granted by the county 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 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 in making the county's determination.

Section 2. Section **59-2-1302** is amended to read:

59-2-1302. Assessor or treasurer's duties -- Collection of uniform fees and taxes on personal property -- Unpaid tax on uniform fee is a lien -- Delinquency interest -- Rate.

(1) After the assessor assesses taxes or uniform fees on personal property, the assessor or, if this duty has been reassigned in an ordinance under Section 17-16-5.5, the treasurer shall:

(a) list the personal property tax or uniform fee as provided in Subsection (3) with the real property of the owner in the manner required by law if the assessor or treasurer, as the case may be, determines that the real property is sufficient to secure the payment of the personal property taxes or uniform fees;

(b) immediately collect the taxes or uniform fees due on the personal property; or

(c) on or before the day on which the tax or uniform fee on personal property is due, obtain from the taxpayer a bond that is:

(i) payable to the county in an amount equal to the amount of the tax or uniform fee due, plus 20% of the amount of the tax or uniform fee due; and

(ii) conditioned for the payment of the tax or uniform fee on or before November 30.

(2) (a) An unpaid tax as defined in Section 59-1-705, or unpaid uniform fee upon personal property listed with the real property is a lien upon the owner's real property as of 12 o'clock noon of January 1 of each year.

(b) An unpaid tax as defined in Section 59-1-705, or unpaid uniform fee upon personal property not listed with the real property is a lien upon the owner's personal property as of 12 o'clock noon of January 1 of each year.

(3) The assessor or treasurer, as the case may be, shall make the listing under this section:

(a) on the record of assessment of the real property; or

(b) by entering a reference showing the record of the assessment of the personal property on the record of assessment of the real property.

(4) (a) The amount of tax or uniform fee assessed upon personal property is delinquent if the tax or uniform fee is not paid within 30 days after the day on which the tax notice or the combined signed statement and tax notice due under Section 59-2-306 is mailed.

(b) Delinquent taxes or uniform fees under Subsection (4)(a) shall bear interest from the date of delinquency until the day on which the delinquent tax or uniform fee is paid at [~~a rate that is 600 basis points above the "Federal Discount Rate" as of the preceding January 1.~~] an interest rate equal to the sum of:

(i) 6%; and

(ii) the targeted federal funds rate:

(A) as defined in 12 C.F.R. Sec. 201.2; and

(B) that exists on the January 1 immediately preceding the date of delinquency.

Section 3. Section **59-2-1331** is amended to read:

59-2-1331. Date tax is delinquent -- Penalty -- Interest -- Payments.

(1) (a) Except as provided in Subsection (1)(b), all taxes, unless otherwise specifically provided for under Section 59-2-1332, or other law, unpaid or postmarked after November 30 of each year following the date of levy, are delinquent, and the county treasurer shall close the treasurer's office for the posting of current year tax payments until a delinquent list has been prepared.

(b) Notwithstanding Subsection (1)(a), if November 30 falls on a Saturday, Sunday, or holiday:

(i) the date of the next following day that is not a Saturday, Sunday, or holiday shall be substituted in Subsection (1)(a) and Subsection 59-2-1332(1) for November 30; and

(ii) the date of the day occurring 30 days after the date under Subsection (1)(b)(i) shall be substituted in Subsection 59-2-1332(1) for December 30.

(2) (a) For each parcel, all delinquent taxes on each separately assessed parcel are subject to a penalty of 2% of the amount of the taxes or \$10, whichever is greater.

(b) Unless the delinquent taxes, together with the penalty, are paid before January 16, the amount of taxes and penalty shall bear interest on a per annum basis from January 1 following the delinquency date. [~~This~~]

(c) For purposes of Subsection (2)(b), the interest rate is [~~600 basis points (6%) above the "Federal Discount Rate" that exists on January 1 following the date of delinquency.~~] equal to the sum of:

(i) 6%; and

(ii) the targeted federal funds rate:

(A) as defined in 12 C.F.R. Sec. 201.2; and

(B) that exists on the January 1 immediately following the date of delinquency.

(3) If the delinquency exceeds one year, the amount of taxes and penalties for that year and all succeeding years shall bear interest until settled in full through redemption or tax sale. The interest rate to be applied shall be calculated for each year as established under Subsection (2) and shall apply on each individual year's delinquency until paid.

(4) The county treasurer may accept and credit on account against taxes becoming due during the current year, at any time before or after the tax rates are adopted, but not subsequent to the date of delinquency, either:

(a) payments in amounts of not less than \$10; or

(b) the full amount of the unpaid tax.

Section 4. Section **59-2-1347** is amended to read:

59-2-1347. Redemption -- Adjustment or deferral of taxes -- Interest.

(1) (a) If any interested person applies to the county legislative body for an adjustment

or deferral of taxes levied against property assessed by the county assessor, a sum less than the full amount due may be accepted, or the full amount may be deferred, where, in the judgment of the county legislative body, the best human interests and the interests of the state and the county are served. Nothing in this section prohibits the county legislative body from granting retroactive adjustments or deferrals if the criteria established in this subsection are met.

(b) If any interested person applies to the commission for an adjustment of taxes levied against property assessed by the commission, a sum less than the full amount due may be accepted, where, in the judgment of the commission, the best human interests and the interests of the state and the county are served.

(2) If an application is made, the applicant shall submit a statement, setting forth the following:

- (a) a description of the property;
- (b) the value of the property for the current year;
- (c) the amount of delinquent taxes, interest, and penalties;
- (d) the amount proposed to be paid in settlement or to be deferred; and
- (e) any other information required by the county legislative body.

(3) (a) Blank forms for the application shall be prepared by the commission.

(b) A deferral may not be granted without the written consent of the holder of any mortgage or trust deed outstanding on the property.

(c) The amount deferred shall be recorded as a lien on the property and shall bear interest at a rate equal to the [~~Federal Discount Rate as of January 1 of each year of settlement and deferral.~~] lesser of:

(i) 6%; or

(ii) the targeted federal funds rate:

(A) as defined in 12 C.F.R. Sec. 201.2; and

(B) that exists on the January 1 immediately preceding the day on which the taxes are deferred.

(d) The amount deferred together with accrued interest shall be due and payable when the

property is sold or otherwise conveyed.

(4) Within ten days after the consummation of any adjustment or deferral, the county legislative body or the commission, as the case may be, shall cause the adjustment or deferral to be posted in the county where the property involved is located. The publication shall contain:

- (a) the name of the applicant;
- (b) the parcel, serial, or account number of the property;
- (c) the value of the property for the current year;
- (d) the sum of the delinquent taxes, interest, and penalty due; and

(e) the adjusted amount paid or deferred. A record of the action taken by the county legislative body shall be sent to the commission at the end of each month for all action taken during the preceding month. A record of the action taken by the commission shall be sent to the county legislative body of the counties affected by the action.

Section 5. Effective date.

This act takes effect on January 1, 2004.