

**PROPERTY TAX DEFERRAL - SENIOR
CITIZENS**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: Dennis E. Stowell

LONG TITLE

General Description:

This bill modifies the Property Tax Act to amend the provisions relating to the abatement or deferral of certain property taxes.

Highlighted Provisions:

This bill:

- ▶ modifies the provisions relating to the abatement or deferral of property taxes for the poor;
- ▶ provides that certain property may not be subjected to a tax sale during the period of deferral if a county grants a deferral;
- ▶ eliminates the requirement that a deferral applicant obtain approval from the applicant's mortgage lender before a county may grant a deferral;
- ▶ defines terms;
- ▶ requires a county to grant a deferral of a certain portion of a claimant's residential property taxes for certain individuals 70 years of age or older or an unmarried surviving spouse; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:



This bill takes effect on January 1, 2008.

Utah Code Sections Affected:

AMENDS:

59-2-1107, as last amended by Chapters 221 and 310, Laws of Utah 2001

59-2-1108, as last amended by Chapter 143, Laws of Utah 2003

59-2-1109, as last amended by Chapter 229, Laws of Utah 2003

ENACTS:

59-2-1108.5, Utah Code Annotated 1953

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

Section 1. Section **59-2-1107** is amended to read:

59-2-1107. Poor persons -- Amount of abatement.

~~[The]~~ (1) A county may remit or abate the taxes of ~~[any]~~ a poor person meeting the requirements of Section 59-2-1109 in an amount not exceeding the lesser of:

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

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

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

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

(A) for which an abatement is granted by a county under this section; 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 this section.

(b) A county granting an abatement to a person under this section shall issue a refund to that person as described in Subsection (2)(c), if the difference described in Subsection (2)(c) is \$1 or more.

(c) The refund amount is equal to the property taxes paid minus the property taxes due.

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

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

deferred taxes.

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

(b) A deferral may be granted by a county at any time if the applicant is not the owner of income producing assets that could be liquidated to pay the tax.

(c) Any assets transferred to relatives in the prior three-year period shall be considered by a county in making the county's determination as to whether to grant a deferral under this section.

~~[(b)]~~ (2) If the ~~[owner of the property described in Subsection (1)(a) is poor]~~ county grants a deferral described in Subsection (1)(a), the property may not be subjected to a tax sale during the period of ~~[deferment]~~ deferral.

~~[(2)]~~ (3) (a) (i) Taxes deferred by the county accumulate with interest, as provided in Subsection (3)(b), as a lien against the property until the property is sold ~~[or otherwise disposed of].~~

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for purposes of this section, the commission shall broadly define the term "sold" and include in its definition instances where no legal transfer of title occurs.

(b) Deferred taxes under this section:

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

(A) 6%; or

(B) the ~~[targeted]~~ federal funds rate:

(I) as defined in ~~[42]~~ 31 C.F.R. Sec. ~~[201.2]~~ 203.2; 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 3. Section **59-2-1108.5** is enacted to read:

59-2-1108.5. Deferral of taxes -- Interest rate -- Treatment of deferred taxes.

(1) For purposes of this section:

(a) "Claimant" means:

(i) an owner of qualifying residential property:

(A) regardless of income; and

(B) who:

(I) files an application in accordance with Section 59-2-1109;

(II) is 70 years of age or older on or before the date on which an application for deferral described in Subsection (1)(a)(i)(B)(I) is filed;

(III) owes a property tax on the qualifying residential property; and

(IV) resides for not less than ten months of each year in the qualifying residential property;

(ii) a grantor of a trust:

(A) regardless of income; and

(B) holding title to qualifying residential property:

(I) who files an application in accordance with Section 59-2-1109;

(II) who is 70 years of age or older on or before the date on which an application for deferral described in Subsection (1)(a)(ii)(B)(I) is filed;

(III) if a property tax is owed on the qualifying residential property; and

(IV) who resides for not less than ten months of each year in the qualifying residential property; or

(iii) the unmarried surviving spouse of an owner described in Subsection (1)(a)(i) or a grantor described in Subsection (1)(a)(ii) of qualifying residential property if:

(A) the unmarried surviving spouse, regardless of age, files an application in accordance with Section 59-2-1109;

(B) a property tax is owed on the qualifying residential property;

(C) the unmarried surviving spouse resides for not less than ten months of each year in the qualifying residential property; and

(D) the deceased spouse previously obtained a deferral;

121 (I) in accordance with this section; and

122 (II) for the qualifying residential property described in (1)(a)(iii)(B).

123 (b) "Qualifying residential property" means residential property:

124 (i) as defined in Section 59-2-102;

125 (ii) that is single-family residential property; and

126 (iii) owned by a claimant.

127 (2) A county shall grant a deferral of up to 50% of the property taxes levied on the
128 claimant's qualifying residential property if the claimant files an application in accordance with
129 Section 59-2-1109.

130 (3) (a) (i) Taxes deferred by a county under this section accumulate with interest as a
131 lien against a claimant's qualifying residential property until the qualifying residential property
132 is sold.

133 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for
134 purposes of this section, the commission shall broadly define the term "sold" and include in its
135 definition instances where no legal transfer of title occurs.

136 (b) Deferred taxes under this section:

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

138 (A) 6%; or

139 (B) the federal funds rate;

140 (I) as defined in 31 C.F.R. Sec. 203.2; and

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

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

144 (4) If a county grants a deferral in accordance with this section, the qualifying
145 residential property may not be subjected to a tax sale during the period of deferral for the
146 amount of the property tax deferred.

147 Section 4. Section **59-2-1109** is amended to read:

148 **59-2-1109. Deferral or abatement -- Application -- Definition of indigent persons.**

149 ~~[(1) A person under the age of 65 years is not eligible for a deferral or abatement~~
150 ~~provided for poor people under Sections 59-2-1107 and 59-2-1108 unless:]~~

151 ~~[(a) the county finds that extreme hardship would prevail if the grants were not made;~~

or]

~~[(b) the person is disabled:]~~

~~[(2)]~~ (1) (a) An application for ~~[the deferral or]~~ an abatement under Section 59-2-1107 or a deferral under Section 59-2-1108 or 59-2-1108.5 shall be filed on or before September 1 with the county in which the property is located.

(b) The application shall include a signed statement setting forth ~~[the]~~:

(i) eligibility ~~[of the applicant]~~ for the ~~[deferral or]~~ abatement[.] or deferral; and

(ii) the amount of abatement or deferral the applicant is applying for.

(c) Both husband and wife shall sign the application if the husband ~~[and]~~ or wife seek 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)]~~ (1)(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.]~~

(2) If the claimant is the grantor of a trust holding title to real or tangible personal property on which an abatement or deferral is claimed, the claimant may claim the portion of the abatement or deferral under Section 59-2-1107, 59-2-1108, or 59-2-1108.5 and be treated as the owner of that portion of the property held in trust for which the claimant proves to the satisfaction of the county that:

(a) title to the portion of the trust will revert in the claimant upon the exercise of a

power:

(i) by:

(A) the claimant as grantor of the trust;

(B) a nonadverse party; or

(C) both the claimant and a nonadverse party; and

(ii) regardless of whether the power is a power:

(A) to revoke;

(B) to terminate;

(C) to alter;

(D) to amend; or

(E) to appoint;

(b) the claimant is obligated to pay the taxes on that portion of the trust property beginning January 1 of the year the claimant claims the abatement or deferral; and

(c) the claimant meets the requirements under Section 59-2-1107, 59-2-1108, or 59-2-1108.5 for the abatement or deferral.

(3) A person under the age of 65 years is not eligible for an abatement under Section 59-2-1107 or a deferral under Section 59-2-1108 unless:

(a) the county finds that extreme hardship would prevail if the grants were not made; or

(b) the person is disabled.

(4) (a) For purposes of ~~[this section]~~ Sections 59-2-1107 and 59-2-1108, and this Subsection (4):

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

(i) "Poor person" means a person:

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

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

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

~~[(b)]~~ (ii) "Residence" includes a mobile home as defined under Section 70D-1-19.

214 ~~[(5) If the claimant is the grantor of a trust holding title to real or tangible personal~~
215 ~~property on which an abatement or deferral is claimed, the claimant may claim the portion of~~
216 ~~the abatement or deferral under Section 59-2-1107 or 59-2-1108 and be treated as the owner of~~
217 ~~that portion of the property held in trust for which the claimant proves to the satisfaction of the~~
218 ~~county that:]~~

219 ~~[(a) title to the portion of the trust will revert in the claimant upon the exercise of a~~
220 ~~power:]~~

221 ~~[(i) by:]~~

222 ~~[(A) the claimant as grantor of the trust;]~~

223 ~~[(B) a nonadverse party; or]~~

224 ~~[(C) both the claimant and a nonadverse party; and]~~

225 ~~[(ii) regardless of whether the power is a power:]~~

226 ~~[(A) to revoke;]~~

227 ~~[(B) to terminate;]~~

228 ~~[(C) to alter;]~~

229 ~~[(D) to amend; or]~~

230 ~~[(E) to appoint;]~~

231 ~~[(b) the claimant is obligated to pay the taxes on that portion of the trust property~~
232 ~~beginning January 1 of the year the claimant claims the abatement or deferral; and]~~

233 ~~[(c) the claimant meets the requirements under this part for the abatement or deferral.]~~

234 ~~[(6) The commission shall adopt rules to implement this section.]~~

235 ~~[(7)]~~ (b) Any poor person may qualify for:

236 ~~[(a) the deferral of taxes under Section 59-2-1108;]~~

237 ~~[(b) if the person meets the requisites of this section, for the]~~

238 (i) an abatement of taxes under Section 59-2-1107 if the person meets the requirements
239 of this section; [or]

240 (ii) a deferral of taxes under Section 59-2-1108; or

241 ~~[(c)]~~ (iii) both:

242 ~~[(i) the deferral described in Subsection (7) (a); and]~~

243 ~~[(ii)]~~ (A) the abatement described in Subsection [(7)(b).] (4)(b)(i); and

244 (B) the deferral described in Subsection (4)(b)(ii).

245 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
246 commission may adopt rules to implement this section.
247 Section 5. **Effective date.**
248 This bill takes effect on January 1, 2008.

Legislative Review Note
as of 12-18-06 4:06 PM

Office of Legislative Research and General Counsel

H.B. 78 - Property Tax Deferral - Senior Citizens

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill could lead to a shift in burden among property taxpayers. The shift will be dependent upon the number of taxpayers over 70 who apply for a deferral. For each 25 percent who defer taxes there is a potential shift of approximately \$13,500,000.

1/8/2007, 4:42:52 PM, Lead Analyst: Wilko, A.

Office of the Legislative Fiscal Analyst