

Representative Gage Froerer proposes the following substitute bill:

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:

- defines terms;
- 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;
- allows the 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;
- requires the commission to distribute monies to the counties;
- upon sale of the property, requires the county to transfer the deferred taxes and the interest to the General Fund; and
- makes technical changes.



Monies Appropriated in this Bill:

This bill appropriates:

- ▶ a one-time appropriation of \$250,000 to the State Tax Commission.

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 [deferral] 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 target:

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

(I) as established by the Federal Open Markets Committee; 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.

88 ~~[(3)]~~ (4) Deferral may be granted by the county at any time if~~[(a)]~~ the holder of any
89 mortgage or trust deed outstanding on the property gives written approval of the application[;
90 and ~~(b) the applicant is not the owner of income producing assets that could be liquidated to~~
91 ~~pay the tax]~~.

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

94 Section 3. Section **59-2-1108.5** is enacted to read:

95 **59-2-1108.5. Deferral of taxes -- Interest rate -- Treatment of deferred taxes.**

96 (1) For purposes of this section:

97 (a) "Claimant" means:

98 (i) an owner of qualifying residential property:

99 (A) regardless of income; and

100 (B) who:

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

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

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

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

107 (ii) a grantor of a trust:

108 (A) regardless of income; and

109 (B) holding title to qualifying residential property:

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

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

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

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

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

118 (A) the unmarried surviving spouse, regardless of age, files an application in

119 accordance with Section 59-2-1109;

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

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

123 (D) the deceased spouse previously obtained a deferral:

124 (I) in accordance with this section; and

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

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

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

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

129 (iii) owned by a claimant.

130 (2) Subject to Subsection (3), a deferral may be granted of up to 50% of the property
131 taxes levied on a claimant's qualifying residential property if:

132 (a) the claimant files an application in accordance with Section 59-2-1109;

133 (b) the claimant signs a disclosure statement acknowledging that the claimant
134 understands:

135 (i) the deferral is not an abatement of taxes;

136 (ii) the claimant will be required to pay the deferred taxes back to the county upon sale
137 of the qualifying residential property, plus interest; and

138 (iii) a lien will be attached to the qualifying residential property until the deferred taxes
139 plus interest are collected; and

140 (c) the holder of any mortgage or trust deed outstanding on the qualifying residential
141 property gives written approval of the application.

142 (3) (a) A county shall grant deferrals to claimants on a first-come first-serve basis until
143 the funds it receives pursuant to the appropriation in this bill have been distributed to
144 claimants.

145 (b) If a county has undistributed funds remaining at the end of its calendar year, the
146 county shall:

147 (i) retain the funds for distribution to claimants during the following calendar year; and

148 (ii) distribute the funds during the following calendar year to claimants on a first-come
149 first-serve basis.

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

(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 federal-funds rate target:

(I) as established by the Federal Open Markets Committee; 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.

(5) When a piece of qualifying residential property is sold and the county collects the deferred taxes, the county shall transfer the following to the General Fund:

(a) the deferred taxes; and

(b) the interest accumulated pursuant to Subsection (4).

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

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

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

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

~~[(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.

[~~(5) 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 or 59-2-1108 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:~~]

243 ~~[(a) title to the portion of the trust will revert in the claimant upon the exercise of a~~
 244 ~~power:]~~
 245 ~~[(i) by:]~~
 246 ~~[(A) the claimant as grantor of the trust;]~~
 247 ~~[(B) a nonadverse party; or]~~
 248 ~~[(C) both the claimant and a nonadverse party; and]~~
 249 ~~[(ii) regardless of whether the power is a power:]~~
 250 ~~[(A) to revoke;]~~
 251 ~~[(B) to terminate;]~~
 252 ~~[(C) to alter;]~~
 253 ~~[(D) to amend; or]~~
 254 ~~[(E) to appoint;]~~
 255 ~~[(b) the claimant is obligated to pay the taxes on that portion of the trust property~~
 256 ~~beginning January 1 of the year the claimant claims the abatement or deferral; and]~~
 257 ~~[(c) the claimant meets the requirements under this part for the abatement or deferral.]~~
 258 ~~[(6) The commission shall adopt rules to implement this section.]~~
 259 ~~[(7)]~~ (b) Any poor person may qualify for:
 260 ~~[(a) the deferral of taxes under Section 59-2-1108;]~~
 261 ~~[(b) if the person meets the requisites of this section, for the]~~
 262 (i) an abatement of taxes under Section 59-2-1107 if the person meets the requirements
 263 of this section; [or]
 264 (ii) a deferral of taxes under Section 59-2-1108; or
 265 ~~[(c)]~~ (iii) both:
 266 ~~[(i) the deferral described in Subsection (7) (a); and]~~
 267 ~~[(ii)]~~ (A) the abatement described in Subsection [(7)(b)] (4)(b)(i); and
 268 (B) the deferral described in Subsection (4)(b)(ii).
 269 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
 270 commission may adopt rules to implement this section.
 271 **Section 5. One-time appropriation for property tax deferrals.**
 272 (1) Starting January 1, 2008, there is appropriated from the General Fund to the State
 273 Tax Commission for fiscal year 2007-08 only, \$250,000 for distribution to certain counties to

274 fund property tax deferrals granted under Section 59-2-1108.5.

275 (2) The Legislature intends that, to the extent funds are available, the State Tax
276 Commission distribute these monies as provided in Subsection (3).

277 (3) The commission shall determine a county's proportionate share of the revenues by:

278 (a) calculating an amount equal to the population of residents age 65 years of age or
279 older within the county divided by the total population of residents age 65 years of age or older
280 within the state.

281 (b) Except as provided in Subsection (3)(c), population figures for purposes of this
282 section shall be derived from the most recent official census or census estimate of the United
283 States Census Bureau.

284 (c) If a needed population estimate is not available from the United States Census
285 Bureau, population figures shall be derived from the estimate from the Utah Population
286 Estimates Committee created by executive order of the governor.

287 **Section 6. Effective date.**

288 This bill takes effect on January 1, 2008.

H.B. 78 1st Sub. (Buff) - Property Tax Deferral - Senior Citizens

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will appropriate \$250,000 in one-time General Fund revenues in FY 2008 to the Tax Commission for distribution to certain counties as provided in this bill.

	<u>FY 2007 Approp.</u>	<u>FY 2008 Approp.</u>	<u>FY 2009 Approp.</u>	<u>FY 2007 Revenue</u>	<u>FY 2008 Revenue</u>	<u>FY 2009 Revenue</u>
General Fund, One-Time	\$0	\$250,000	\$0	\$0	\$0	\$0
Total	\$0	\$250,000	\$0	\$0	\$0	\$0

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs for businesses or local governments. This bill could result in a deferral of a portion of property taxes for individuals over the age of 70 in FY 2008, limited in the aggregate to the amount appropriated in this bill.