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PROPERTY TAX REVISIONS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: _____

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 65 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.



28 **Other Special Clauses:**

29 This bill takes effect on January 1, 2009.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **59-2-1107**, as last amended by Laws of Utah 2001, Chapters 221 and 310

33 **59-2-1108**, as last amended by Laws of Utah 2007, Chapter 306

34 **59-2-1109**, as last amended by Laws of Utah 2003, Chapter 229

35 ENACTS:

36 **59-2-1108.5**, Utah Code Annotated 1953



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

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

40 **59-2-1107. Poor persons -- Amount of abatement.**

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

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

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

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

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

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

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

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

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

53 (B) the amount of the abatement the county grants under this section.

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

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

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

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

61 (1) (a) ~~[The]~~ A county may, after giving notice, defer any tax levied on the residential
 62 property~~[, subject to the conditions]~~ of a poor person meeting the requirements of Section
 63 59-2-1109.

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

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

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

72 ~~[(2)]~~ (3) (a) (i) Taxes deferred by the county accumulate with interest, as provided in
 73 Subsection (3)(b), as a lien against the property until the property is sold [or otherwise disposed
 74 of].

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

78 (b) Deferred taxes under this section:

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

80 (A) 6%; or

81 (B) the federal funds rate target:

82 (I) established by the Federal Open Markets Committee; and

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

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

86 ~~[(3)]~~ (4) Deferral may be granted by the county at any time if~~[-(a)]~~ the holder of any
 87 mortgage or trust deed outstanding on the property gives written approval of the application~~;~~
 88 ~~and (b) the applicant is not the owner of income producing assets that could be liquidated to~~
 89 ~~pay the tax].~~

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

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

93 **59-2-1108.5. Deferral of taxes -- Interest rate -- Treatment of deferred taxes.**

94 (1) For purposes of this section:

95 (a) "Claimant" means:

96 (i) an owner of qualifying residential property:

97 (A) whose total household income as defined in Section 59-2-1202 is less than 200%
98 of the maximum household income certified to a homeowner's credit under Subsection
99 59-2-1208(1); and

100 (B) who:

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

102 (II) is 65 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) whose total household income as defined in Section 59-2-1202 is less than 200%
109 of the maximum household income certified to a homeowner's credit under Subsection
110 59-2-1208(1); and

111 (B) holding title to qualifying residential property:

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

113 (II) who is 65 years of age or older on or before the date on which an application for
114 deferral described in Subsection (1)(a)(ii)(B)(I) is filed;

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

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

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

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

121 accordance with Section 59-2-1109;
122 (B) a property tax is owed on the qualifying residential property;
123 (C) the unmarried surviving spouse's total household income as defined in Section
124 59-2-1202 is less than 200% of the maximum household income certified to a homeowner's
125 credit under Subsection 59-2-1208(1);
126 (D) the unmarried surviving spouse resides for not less than ten months of each year in
127 the qualifying residential property; and
128 (E) the deceased spouse previously obtained a deferral:
129 (I) in accordance with this section; and
130 (II) for the qualifying residential property described in (1)(a)(iii)(B).
131 (b) "Qualifying residential property" means residential property:
132 (i) as defined in Section 59-2-102;
133 (ii) that is single-family residential property; and
134 (iii) owned by a claimant.
135 (2) Subject to Subsection (3), a deferral may be granted of up to 50% of the property
136 taxes levied on a claimant's qualifying residential property if:
137 (a) the claimant files an application in accordance with Section 59-2-1109;
138 (b) the claimant signs a disclosure statement acknowledging that the claimant
139 understands:
140 (i) the deferral is not an abatement of taxes;
141 (ii) the claimant will be required to pay the deferred taxes back to the county upon sale
142 of the qualifying residential property, plus interest; and
143 (iii) a lien will be attached to the qualifying residential property until the deferred taxes
144 plus interest are collected; and
145 (c) the holder of any mortgage or trust deed outstanding on the qualifying residential
146 property gives written approval of the application.
147 (3) (a) A county shall grant deferrals to claimants on a first-come first-serve basis until
148 the funds it receives pursuant to the appropriation in this bill have been distributed to
149 claimants.
150 (b) If a county has undistributed funds remaining at the end of its calendar year, the
151 county shall:

152 (i) retain the funds for distribution to claimants during the following calendar year; and
 153 (ii) distribute the funds during the following calendar year to claimants on a first-come
 154 first-serve basis.

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

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

161 (b) Deferred taxes under this section:

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

163 (A) 6%; or

164 (B) the federal-funds rate target:

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

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

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

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

171 (a) the deferred taxes; and

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

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

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

177 **59-2-1109. Deferral or abatement -- Application -- Definition of indigent persons.**

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

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

181 ~~or]~~

182 ~~[(b) the person is disabled.]~~

183 ~~[(2)]~~ (1) (a) An application for ~~[the deferral or]~~ an abatement under Section 59-2-1107
 184 or a deferral under Section 59-2-1108 or 59-2-1108.5 shall be filed on or before September 1
 185 with the county in which the property is located.

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

187 (i) eligibility [of the applicant] for the [deferral or] abatement[-] or deferral; and

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

189 (c) Both husband and wife shall sign the application if the husband ~~[and]~~ or wife ~~[seek]~~
 190 seeks a deferral or abatement on a residence:

191 (i) in which they both reside; and

192 (ii) which they own as joint tenants.

193 (d) A county may extend the deadline for filing under Subsection ~~[(2)]~~ (1)(a) until
 194 December 31 if the county finds that good cause exists to extend the deadline.

195 ~~[(3) (a) For purposes of this Subsection (3):]~~

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

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

198 ~~[(B) for the calendar year for which the abatement is granted:]~~

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

200 ~~[(A) the amount of the property taxes the person paid for the taxable year for which the~~
 201 ~~person is applying for the abatement; and]~~

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

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

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

211 (a) title to the portion of the trust will revert in the claimant upon the exercise of a
 212 power:

213 (i) by:

214 (A) the claimant as grantor of the trust;
215 (B) a nonadverse party; or
216 (C) both the claimant and a nonadverse party; and
217 (ii) regardless of whether the power is a power to:
218 (A) revoke;
219 (B) terminate;
220 (C) alter;
221 (D) amend; or
222 (E) appoint;
223 (b) the claimant is obligated to pay the taxes on that portion of the trust property
224 beginning January 1 of the year the claimant claims the abatement or deferral; and
225 (c) the claimant meets the requirements under Section 59-2-1107, 59-2-1108, or
226 59-2-1108.5 for the abatement or deferral.
227 (3) A person under the age of 65 years is not eligible for an abatement under Section
228 59-2-1107 or a deferral under Section 59-2-1108 unless:
229 (a) the county finds that extreme hardship would prevail if the grants were not made; or
230 (b) the person is disabled.
231 (4) (a) For purposes of [this section] Sections 59-2-1107 and 59-2-1108, and this
232 Subsection (4):
233 [~~(a) a poor person is any person:~~
234 (i) "Poor person" means a person:
235 [~~(i)~~] (A) whose total household income as defined in Section 59-2-1202 is less than the
236 maximum household income [~~certified to~~] for which a homeowner's credit is allowed under
237 Subsection 59-2-1208(1);
238 [~~(i)~~] (B) who resides for not less than ten months of each year in the residence for
239 which the [~~tax relief, deferral, or~~] abatement or deferral is requested; and
240 [~~(iii)~~] (C) who is unable to meet the tax assessed on the person's residential property as
241 the tax becomes due[~~; and~~].
242 [~~(b)~~] (ii) "Residence" includes a mobile home as defined under Section 70D-1-19.
243 [~~(5) If the claimant is the grantor of a trust holding title to real or tangible personal~~
244 property on which an abatement or deferral is claimed, the claimant may claim the portion of

245 the abatement or deferral under Section 59-2-1107 or 59-2-1108 and be treated as the owner of
 246 that portion of the property held in trust for which the claimant proves to the satisfaction of the
 247 county that:]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

274 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
 275 commission may adopt rules to implement this section.

276 Section 5. **One-time appropriation for property tax deferrals.**

277 (1) Starting January 1, 2009, there is appropriated from the General Fund to the State
278 Tax Commission for fiscal year 2008-09 only, \$250,000 for distribution to certain counties to
279 fund property tax deferrals granted under Section 59-2-1108.5.

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

282 (3) (a) The commission shall determine a county's proportionate share of the revenues
283 by calculating an amount equal to the population of residents 65 years of age or older within
284 the county divided by the total population of residents 65 years of age or older within the state.

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

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

291 Section 6. **Effective date.**

292 This bill takes effect on January 1, 2009.

Legislative Review Note
as of 1-23-08 3:02 PM

Office of Legislative Research and General Counsel

H.B. 333 - Property Tax Revisions

Fiscal Note

2008 General Session
State of Utah

State Impact

This bill appropriates \$250,000 to the Tax Commission for distribution to counties impacted by the provisions of the bill.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>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 could lead to a shift in burden among property taxpayers. The shift will be dependent upon the number of taxpayers over 65 who apply for a deferral. For each 10 percent who defer taxes there is a potential shift of approximately \$11,800,000.