

DELINQUENT PROPERTY TAX AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: _____

LONG TITLE

General Description:

This bill changes provisions related to delinquent and deferred property taxes.

Highlighted Provisions:

This bill:

- ▶ adjusts the interest rate charged on delinquent personal property taxes and deferred property taxes to be similar to the interest rate charged on delinquent real property taxes;
- ▶ adjusts the minimum penalty related to delinquent personal property taxes; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill has retrospective operation to January 1, 2011.

Utah Code Sections Affected:

AMENDS:

- 59-2-307**, as last amended by Laws of Utah 2009, Chapter 154
- 59-2-1108**, as last amended by Laws of Utah 2007, Chapter 306
- 59-2-1302**, as last amended by Laws of Utah 2008, Chapter 61
- 59-2-1347**, as last amended by Laws of Utah 2007, Chapter 306



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

29 Section 1. Section **59-2-307** is amended to read:

30 **59-2-307. Refusal by taxpayer to file signed statement -- Penalty -- Assessor to**
31 **estimate value -- Reporting information to other counties.**

32 (1) (a) Each person who fails to file the signed statement required by Section 59-2-306,
33 fails to file the signed statement with respect to name and place of residence, or fails to appear
34 and testify when requested by the assessor, shall pay a penalty equal to 10% of the estimated
35 tax due, but not less than [~~\$100~~] \$25 for each failure to file a signed and completed statement.

36 (b) Each penalty under Subsection (1)(a) shall be collected in the manner provided by
37 Sections 59-2-1302 and 59-2-1303, except as otherwise provided for in this section, or by a
38 judicial proceeding brought in the name of the assessor.

39 (c) All money recovered by any assessor under this section shall be paid into the county
40 treasury.

41 (2) (a) The penalty imposed by Subsection (1)(a) may not be waived or reduced by the
42 assessor, county, county Board of Equalization, or commission except pursuant to a procedure
43 for the review and approval of reductions and waivers adopted by county ordinance, or by
44 administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative
45 Rulemaking Act.

46 (b) (i) Except as provided in Subsection (2)(b)(ii), a penalty under Subsection (1)(a)
47 may be imposed on or after May 16 of the year the statement described in Section 59-2-306 is
48 requested by the county assessor.

49 (ii) A penalty under Subsection (1)(a) may not be imposed until 30 days after the
50 postmark date of mailing of a subsequent notice if the signed statement described in Section
51 59-2-306 is requested:

52 (A) on or after March 16; or

53 (B) by a county assessor of a county of the first class.

54 (3) (a) If an owner neglects or refuses to file a signed statement requested by an
55 assessor as required under Section 59-2-306:

56 (i) the assessor shall:

57 (A) make a record of the failure to file; and

58 (B) make an estimate of the value of the property of the owner based on known facts

59 and circumstances; and

60 (ii) the assessor of a county of the first class:

61 (A) shall make a subsequent request by mail for the signed statement, informing the
62 owner of the consequences of not filing a signed statement; and

63 (B) may impose a fee for the actual and necessary expenses of the mailing under
64 Subsection (3)(a)(ii)(A).

65 (b) The value fixed by the assessor in accordance with Subsection (3)(a)(i) may not be
66 reduced by the county board of equalization or by the commission.

67 (4) If the signed statement discloses property in any other county, the assessor shall file
68 the signed statement and send a copy to the assessor of each county in which the property is
69 located.

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

71 **59-2-1108. Indigent persons -- Deferral of taxes -- Interest rate -- Treatment of**
72 **deferred taxes.**

73 (1) (a) The county may, after giving notice, defer any tax levied on residential property,
74 subject to the conditions of Section 59-2-1109.

75 (b) If the owner of the property described in Subsection (1)(a) is poor, the property may
76 not be subjected to a tax sale during the period of deferment.

77 (2) (a) Taxes deferred by the county accumulate with interest as a lien against the
78 property until the property is sold or otherwise disposed of.

79 (b) Deferred taxes under this section:

80 (i) subject to Subsection (2)(c), bear interest at an interest rate equal to the [tesser] sum
81 of:

82 (A) 6%; [~~or~~] and

83 (B) the federal funds rate target:

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

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

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

88 (c) The interest rate described in Subsection (2)(b) may not be less than 7% or more
89 than 10%.

90 (3) Deferral may be granted by the county at any time if:

91 (a) the holder of any mortgage or trust deed outstanding on the property gives written
92 approval of the application; and

93 (b) the applicant is not the owner of income producing assets that could be liquidated
94 to pay the tax.

95 (4) Any assets transferred to relatives in the prior three-year period shall be considered
96 by the county in making the county's determination.

97 Section 3. Section **59-2-1302** is amended to read:

98 **59-2-1302. Assessor or treasurer's duties -- Collection of uniform fees and taxes**
99 **on personal property -- Unpaid tax or unpaid uniform fee is a lien -- Delinquency interest**
100 **-- Rate.**

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

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

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

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

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

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

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

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

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

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

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

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

127 (b) ~~[Delinquent]~~ Subject to Subsection (4)(c), taxes or uniform fees under Subsection
128 (4)(a) shall bear interest from the date of delinquency until the day on which the delinquent tax
129 or uniform fee is paid at an interest rate equal to the sum of:

130 (i) 6%; and

131 (ii) the federal funds rate target:

132 (A) established by the Federal Open Markets Committee; and

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

134 (c) The interest rate described in Subsection (4)(b) may not be less than 7% or more
135 than 10%.

136 (5) A county assessor or treasurer shall deposit all collections of public funds from a
137 personal property tax or personal property uniform fee no later than once every seven banking
138 days with:

139 (a) the state treasurer; or

140 (b) a qualified depository for the credit of the county.

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

142 **59-2-1347. Redemption -- Adjustment or deferral of taxes -- Interest.**

143 (1) (a) If any interested person applies to the county legislative body for an adjustment
144 or deferral of taxes levied against property assessed by the county assessor, a sum less than the
145 full amount due may be accepted, or the full amount may be deferred, where, in the judgment
146 of the county legislative body, the best human interests and the interests of the state and the
147 county are served. Nothing in this section prohibits the county legislative body from granting
148 retroactive adjustments or deferrals if the criteria established in this Subsection (1) are met.

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

152 of the state and the county are served.

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

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

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

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

163 (c) ~~[The]~~ Subject to Subsection (3)(d), the amount deferred shall be recorded as a lien
164 on the property and shall bear interest at a rate equal to the ~~[lesser]~~ sum of:

- 165 (i) 6%; ~~[or]~~ and
- 166 (ii) the federal funds rate target:
 - 167 (A) established by the Federal Open Markets Committee; and
 - 168 (B) that exists on the January 1 immediately preceding the day on which the taxes are
169 deferred.

170 (d) The interest rate described in Subsection (3)(c) may not be less than 7% or more
171 than 10%.

172 ~~[(d)]~~ (e) The amount deferred together with accrued interest shall be due and payable
173 when the property is sold or otherwise conveyed.

174 (4) Within 10 days after the consummation of any adjustment or deferral, the county
175 legislative body or the commission, as the case may be, shall cause the adjustment or deferral
176 to be posted in the county where the property involved is located. The publication shall
177 contain:

- 178 (a) the name of the applicant;
- 179 (b) the parcel, serial, or account number of the property;
- 180 (c) the value of the property for the current year;
- 181 (d) the sum of the delinquent taxes, interest, and penalty due; and
- 182 (e) the adjusted amount paid or deferred.

183 (5) A record of the action taken by the county legislative body shall be sent to the
184 commission at the end of each month for all action taken during the preceding month. A
185 record of the action taken by the commission shall be sent to the county legislative body of the
186 counties affected by the action.

187 Section 5. **Retrospective operation.**

188 This bill has retrospective operation to January 1, 2011.

Legislative Review Note
as of 1-4-11 6:41 AM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 190, 2011 General Session

SHORT TITLE: Delinquent Property Tax Amendments

SPONSOR: Froerer, G.

STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill could increase local revenue up to \$376,800 annually.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Individuals and businesses delinquent on their taxes will pay a sum total of \$376,800 more annually.