

**Representative Gage Froerer** proposes the following substitute bill:

**DELINQUENT PROPERTY TAX AMENDMENTS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gage Froerer**

Senate Sponsor: Wayne L. Niederhauser

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**LONG TITLE**

**General Description:**

This bill changes provisions related to delinquent property taxes.

**Highlighted Provisions:**

This bill:

- ▶ adjusts the interest rate charged on delinquent personal 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

**59-2-1302**, as last amended by Laws of Utah 2008, Chapter 61

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

**1st Sub. H.B. 190**



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

27 **59-2-307. Refusal by taxpayer to file signed statement -- Penalty -- Assessor to**  
28 **estimate value -- Reporting information to other counties.**

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

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

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

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

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

46 (ii) A penalty under Subsection (1)(a) may not be imposed until 30 days after the  
47 postmark date of mailing of a subsequent notice if the signed statement described in Section  
48 59-2-306 is requested:

49 (A) on or after March 16; or

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

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

53 (i) the assessor shall:

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

55 (B) make an estimate of the value of the property of the owner based on known facts  
56 and circumstances; and

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

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

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

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

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

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

68 **59-2-1302. Assessor or treasurer's duties -- Collection of uniform fees and taxes**  
69 **on personal property -- Unpaid tax or unpaid uniform fee is a lien -- Delinquency interest**  
70 **-- Rate.**

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

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

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

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

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

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

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

86 (b) An unpaid tax as defined in Section 59-1-705, or unpaid uniform fee upon personal  
87 property not listed with the real property is a lien upon the owner's personal property as of [~~12~~

88 o'clock] noon of January 1 of each year.

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

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

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

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

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

100 (i) 6%; and

101 (ii) the federal funds rate target:

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

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

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

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

109 (a) the state treasurer; or

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

111 **Section 3. Retrospective operation.**

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