

# HB0190S01 compared with HB0190

~~deleted text~~ shows text that was in HB0190 but was deleted in HB0190S01.

inserted text shows text that was not in HB0190 but was inserted into HB0190S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Representative Gage Froerer proposes the following substitute bill:

## DELINQUENT PROPERTY TAX AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gage Froerer**

Senate Sponsor: \_\_\_\_\_

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### 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:

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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~~

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

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

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

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

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

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

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

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

(ii) A penalty under Subsection (1)(a) may not be imposed until 30 days after the postmark date of mailing of a subsequent notice if the signed statement described in Section

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59-2-306 is requested:

(A) on or after March 16; or

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

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

(i) the assessor shall:

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

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

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

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

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

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

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

Section 2. Section ~~{59-2-1108}~~59-2-1302 is amended to read:

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

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

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

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

~~\_\_\_\_\_ (b) Deferred taxes under this section:~~

~~\_\_\_\_\_ (i) subject to Subsection (2)(c), bear interest at an interest rate equal to the [lesser] sum of:~~

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- ~~—— (A) 6%; [or] and~~
- ~~—— (B) the federal funds rate target;~~
- ~~—— (I) 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.~~
- ~~—— (c) The interest rate described in Subsection (2)(b) may not be less than 7% or more than 10%.~~
- ~~—— (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 59-2-1302 is amended to read:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) 6%; and

(ii) the federal funds rate target:

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

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

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

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

(a) the state treasurer; or

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

~~{ Section 4. Section 59-2-1347 is amended to read:~~

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

~~(1) (a) If any interested person applies to the county legislative body for an adjustment~~

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~~or deferral of taxes levied against property assessed by the county assessor, a sum less than the full amount due may be accepted, or the full amount may be deferred, where, in the judgment of the county legislative body, the best human interests and the interests of the state and the county are served. Nothing in this section prohibits the county legislative body from granting retroactive adjustments or deferrals if the criteria established in this Subsection (1) are met.~~

~~—— (b) If any interested person applies to the commission for an adjustment of taxes levied against property assessed by the commission, a sum less than the full amount due may be accepted, where, in the judgment of the commission, the best human interests and the interests of the state and the county are served:~~

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

~~—— (a) a description of the property;~~

~~—— (b) the value of the property for the current year;~~

~~—— (c) the amount of delinquent taxes, interest, and penalties;~~

~~—— (d) the amount proposed to be paid in settlement or to be deferred; and~~

~~—— (e) any other information required by the county legislative body.~~

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

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

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

~~—— (i) 6%; [or] and~~

~~—— (ii) the federal funds rate target:~~

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

~~—— (B) that exists on the January 1 immediately preceding the day on which the taxes are deferred.~~

~~—— (d) The interest rate described in Subsection (3)(c) may not be less than 7% or more than 10%:~~

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

~~—— (4) Within 10 days after the consummation of any adjustment or deferral, the county~~

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~~legislative body or the commission, as the case may be, shall cause the adjustment or deferral to be posted in the county where the property involved is located. The publication shall contain:~~

- ~~\_\_\_\_\_ (a) the name of the applicant;~~
- ~~\_\_\_\_\_ (b) the parcel, serial, or account number of the property;~~
- ~~\_\_\_\_\_ (c) the value of the property for the current year;~~
- ~~\_\_\_\_\_ (d) the sum of the delinquent taxes, interest, and penalty due; and~~
- ~~\_\_\_\_\_ (e) the adjusted amount paid or deferred.~~
- ~~\_\_\_\_\_ (5) A record of the action taken by the county legislative body shall be sent to the commission at the end of each month for all action taken during the preceding month. A record of the action taken by the commission shall be sent to the county legislative body of the counties affected by the action.~~

‡ Section ~~{5}~~3. **Retrospective operation.**

This bill has retrospective operation to January 1, 2011.

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### **Legislative Review Note**

~~\_\_\_\_\_ as of 1-4-11 6:41 AM~~

~~\_\_\_\_\_ Office of Legislative Research and General Counsel}~~