

SB0035S01 compared with SB0035

~~{deleted text}~~ shows text that was in SB0035 but was deleted in SB0035S01.

inserted text shows text that was not in SB0035 but was inserted into SB0035S01.

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Senator Gene Davis proposes the following substitute bill:

CIRCUIT BREAKER AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gene Davis

House Sponsor: Robert M. Spendlove

LONG TITLE

~~{Committee Note:~~

~~———The Revenue and Taxation Interim Committee recommended this bill.~~

~~———Legislative Vote: 11 voting for 0 voting against 8 absent~~

~~{General Description:~~

~~This bill modifies provisions relating to the tax relief commonly known as "circuit breaker."~~

Highlighted Provisions:

This bill:

- ▶ modifies the qualifications for circuit breaker tax relief;
- ▶ changes the consumer price index used to adjust annual income qualifications;
- ▶ modifies the source of payment for the circuit breaker homeowner's credit; and
- ▶ makes technical changes.

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Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-1202, as last amended by Laws of Utah 2019, Chapter 453

59-2-1203, as last amended by Laws of Utah 2001, Chapters 221 and 310

59-2-1206, as last amended by Laws of Utah 2001, Chapters 221 and 310

59-2-1208, as last amended by Laws of Utah 2018, Chapters 405 and 456

59-2-1209, as last amended by Laws of Utah 2018, Chapters 405 and 456

59-2-1220, as last amended by Laws of Utah 2001, Chapters 221 and 310

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

Section 1. Section **59-2-1202** is amended to read:

59-2-1202. Definitions.

As used in this part:

(1) (a) "Claimant" means a homeowner or renter who:

(i) files a claim under this part for a residence;

(ii) is domiciled in this state for the entire calendar year for which a claim for relief is filed under this part; and

(iii) on or before the December 31 of the year for which a claim for relief is filed under this part, is:

~~[(A) 65 years of age or older if the person was born on or before December 31, 1942;]~~

~~[(B)]~~ (A) 66 years of age or older if the ~~[person was born on or after January 1, 1943,~~
~~but]~~ individual was born on or before December 31, 1959; or

~~[(C)]~~ (B) 67 years of age or older if the ~~[person]~~ individual was born on or after January 1, 1960.

(b) Notwithstanding Subsection (1)(a), "claimant" includes a surviving spouse:

(i) regardless of:

(A) the age of the surviving spouse; or

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(B) the age of the deceased spouse at the time of death;

(ii) if the surviving spouse meets the requirements of this part except for the age requirement;

(iii) if the surviving spouse is part of the same household of the deceased spouse at the time of death of the deceased spouse; and

(iv) if the surviving spouse is unmarried at the time the surviving spouse files the claim.

(c) If two or more individuals of a household are able to meet the qualifications for a claimant, they may determine among them as to who the claimant shall be, but if they are unable to agree, the matter shall be referred to the county legislative body for a determination of the claimant of an owned residence and to the commission for a determination of the claimant of a rented residence.

(2) "Consumer price index housing" means the Consumer Price Index - All Urban Consumers, Housing United States Cities Average, published by the Bureau of Labor Statistics of the United States Department of Labor.

~~(2)~~ (3) (a) "Gross rent" means ~~[rental]~~ rent actually paid in cash or its equivalent solely for the right of occupancy, at arm's-length, of a residence, exclusive of charges for any utilities, services, furniture, furnishings, or personal appliances furnished by the landlord as a part of the rental agreement.

(b) If a claimant occupies two or more residences in the year and does not own the residence as of the lien date, "gross rent" means the total rent paid for the residences during the one-year period for which the renter files a claim under this part.

(4) (a) "Homeowner" means:

(i) an individual whose name is listed on the deed of a residence; or

(ii) if a residence is owned in a qualifying trust, an individual who is a grantor, trustor, or settlor or holds another similar role in the trust.

(b) "Homeowner" does not include:

(i) if a residence is owned by any type of entity other than a qualifying trust, an individual who holds an ownership interest in that entity; or

(ii) an individual who is listed on a deed of a residence along with an entity other than a qualifying trust.

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~~[(3)]~~ (5) "Homeowner's credit" means a credit against a claimant's property tax liability.

~~[(4)]~~ (6) "Household" means the association of ~~[persons]~~ individuals who live in the same dwelling, sharing ~~[its]~~ the dwelling's furnishings, facilities, accommodations, and expenses.

~~[(5)]~~ "Household"

(7) (a) Except as provided in Subsection (7)(b), "household income" means all income received by all ~~[persons of a]~~ members of a claimant's household in:

~~[(a)]~~ (i) for a claimant who owns a residence, the calendar year preceding the calendar year in which property taxes are due; or

~~[(b)]~~ (ii) for ~~[purposes of the renter's credit authorized by this part]~~ a claimant who rents a residence, the year for which a claim is filed.

(b) "Household income" does not include income received by a member of a claimant's household who is:

(i) under the age of 18; or

(ii) a parent or grandparent, through blood, marriage, or adoption, of the claimant or the claimant's spouse.

~~[(6)]~~ (8) (a) (i) "Income" means the sum of:

(A) federal adjusted gross income as defined in Section 62, Internal Revenue Code; and

(B) all nontaxable income as defined in Subsection ~~[(6)]~~ (8)(b).

(ii) "Income" does not include:

(A) aid, assistance, or contributions from a tax-exempt nongovernmental source;

(B) surplus foods;

(C) relief in kind supplied by a public or private agency; ~~[or]~~

(D) relief provided under this part or Part 18, Tax Deferral and Tax Abatement~~[-]; or~~

(E) Social Security Disability Income payments received under the Social Security Act.

(b) For purposes of Subsection ~~[(6)]~~ (8)(a)(i), "nontaxable income" means amounts excluded from adjusted gross income under the Internal Revenue Code, including:

(i) capital gains;

(ii) loss carry forwards claimed during the taxable year in which a claimant files for

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relief under this part or Part 18, Tax Deferral and Tax Abatement;

(iii) depreciation claimed pursuant to the Internal Revenue Code by a claimant on the residence for which the claimant files for relief under this part or Part 18, Tax Deferral and Tax Abatement;

(iv) support money received;

(v) nontaxable strike benefits;

(vi) cash public assistance or relief;

(vii) the gross amount of a pension or annuity, including benefits under the Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq., and veterans disability pensions;

(viii) except for payments described in Subsection (8)(a)(ii)(E), payments received under the Social Security Act;

(ix) state unemployment insurance amounts;

(x) nontaxable interest received from any source;

(xi) workers' compensation;

(xii) the gross amount of "loss of time" insurance; and

(xiii) voluntary contributions to a tax-deferred retirement plan.

~~[(7)]~~ (9) (a) "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest, and charges for service, levied on 35% of the fair market value, as reflected on the assessment ~~fr~~rol, of a claimant's residence in this state.

(b) For a mobile home, "property taxes accrued" includes taxes imposed on both the land upon which the home is situated and on the structure of the home itself, whether classified as real property or personal property taxes.

~~[(c) (i) Beginning on January 1, 1999, for a claimant who owns a residence, "property taxes accrued" are the property taxes described in Subsection (7)(a) levied for the calendar year on 35% of the fair market value of the residence as reflected on the assessment roll.]~~

~~[(ii) (c) The [amount] relief described in Subsection [(7)(c)(i)] (9)(a) constitutes:~~

~~[(A) (i) a tax abatement for the poor in accordance with Utah Constitution, Article XIII, Section 3; and~~

~~[(B) (ii) the residential exemption provided for in Section 59-2-103.~~

(d) (i) For purposes of this Subsection ~~[(7)]~~ (9), property taxes accrued are levied on the lien date.

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(ii) If a claimant owns a residence on the lien date, property taxes accrued mean taxes levied on the lien date, even if that claimant does not own a residence for the entire year.

(e) When a household owns and occupies two or more different residences in this state in the same calendar year, property taxes accrued shall relate only to the residence occupied on the lien date by the household as [its] the household's principal place of residence.

(f) (i) If a residence is an integral part of a large unit such as a farm or a multipurpose or multidwelling building, property taxes accrued shall be [~~the same percentage of the total property taxes accrued as~~] calculated on the percentage that the value of the residence is of the total value of the unit.

(ii) For purposes of this Subsection [~~(7)~~] (9)(f), "unit" refers to the parcel of property covered by a single tax statement of which the residence is a part.

(10) "Qualifying trust" means a trust holding title to real or tangible personal property for which an individual:

(a) makes a claim under this part;

(b) proves to the satisfaction of the county that title to the portion of the trust will revert in the individual upon the exercise of a power:

(i) by:

(A) the individual as grantor, trustor, settlor, or in another similar role of the trust;

(B) a nonadverse party; or

(C) both the individual 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; and

(c) is obligated to pay the taxes on that portion of the trust property beginning January 1 of the year the individual makes the claim.

[~~(8)~~] (11) (a) As used in this section, "rental assistance payment" means any payment that:

(i) is made by a:

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(A) governmental entity; ~~[or]~~

(B) ~~[(H)]~~ charitable organization; or

~~[(H)]~~ (C) religious organization; and

(ii) is specifically designated for the payment of rent of a claimant:

(A) for the calendar year for which the claimant seeks a renter's credit under this part;

and

(B) regardless of whether the payment is made to the:

(I) claimant; or

(II) landlord~~[-and]~~.

(b) ~~[m]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the terms:

(i) "governmental entity";

(ii) "charitable organization"; or

(iii) "religious organization."

~~[(9)]~~ (12) (a) (i) "Residence" means the dwelling, whether owned or rented, and so much of the land surrounding ~~[it]~~ the dwelling, not exceeding one acre, as is reasonably necessary for use of the dwelling as a home~~[-and may consist of]~~.

(ii) "Residence" includes a dwelling that is:

(A) a part of a multidwelling or multipurpose building and a part of the land upon which ~~[it]~~ the multidwelling or multipurpose building is built; and ~~[includes]~~

(B) a mobile home or houseboat.

(b) "Residence" does not include personal property such as furniture, furnishings, or appliances.

(c) For purposes of this Subsection ~~[(9)]~~ (12), "owned" includes a vendee in possession under a land contract or one or more joint tenants or tenants in common.

Section 2. Section **59-2-1203** is amended to read:

59-2-1203. Right to file claim -- Death of claimant.

(1) (a) The right to file a claim under this part is personal to the claimant.

(b) The right to file a claim does not survive the claimant's death.

(c) The right to file a claim may be exercised on behalf of a claimant by:

(i) a legal guardian of the claimant; or

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(ii) an attorney-in-fact of the claimant.

(2) (a) If a claimant dies after having filed a timely claim, the amount of the claim shall be disbursed to another member of the household as determined by the commission by rule.

(b) If the claimant described in Subsection (2)(a) was the only member of the household, the claim may be paid to the executor or administrator, except that if neither an executor or administrator is appointed and qualified within two years of the filing of the claim, the amount of the claim shall escheat to the state.

(3) If the claimant is the grantor [~~of a trust holding title to real or tangible personal property on which a credit is claimed~~], trustee, or settlor or holds another similar role in a qualifying trust and the claimant meets the requirements of this part, the claimant may claim the portion of the credit 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 credit; and]~~

~~[(c) the claimant meets the requirements under this part for the credit.]~~

(4) The ~~[amount]~~ relief described in Subsection 59-2-1202~~[(7)(c)(i)](9)(a)~~ is in addition to any other exemption or reduction for which a homeowner may be eligible, including the homeowner's credit provided for in Section 59-2-1206.

Section 3. Section **59-2-1206** is amended to read:

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59-2-1206. Application for homeowner's credit -- Time for filing -- Payment from ~~{General Fund}~~state.

(1) (a) A claimant applying for a homeowner's credit shall file annually [~~file~~] an application for the credit with the county before September 1.

(b) The application under this section shall:

(i) be on forms provided by:

(A) the commission; or

(B) the county in which the applicant resides; and

(ii) include a household income statement signed by the claimant stating that:

(A) the income statement is correct; and

(B) the claimant qualifies for the credit.

(c) (i) Subject to Subsection (1)(c)(ii), a county shall apply the credit in accordance with this section and Section 59-2-1207 for the year in which the claimant applies for a homeowner's credit if the claimant meets the criteria for obtaining a homeowner's credit as provided in this part.

(ii) A homeowner's credit under this part may not exceed the claimant's property tax liability for the year in which the claimant applies for a homeowner's credit under this part.

(d) A claimant may qualify for a homeowner's credit under this part regardless of whether the claimant owes delinquent property taxes.

(2) (a) (i) The county shall compile a list of claimants and the homeowner's credits granted to the claimants for purposes of obtaining payment from the ~~[General Fund]~~state for the amount of credits granted.

(ii) A county may not obtain payment from the ~~[General Fund]~~state for the amount described in Subsection 59-2-1202[~~(7)~~](9).

(b) Upon certification by the commission the payment for the credits under this Subsection (2) shall be made to the county on or before January 1 if the list of claimants and the credits granted are received by the commission on or before November 30 of the year in which the credits under this part are granted.

(c) If the commission does not receive the list under this Subsection (2) on or before November 30, payment shall be made within 30 days of receipt of the list of claimants and credits from the county.

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Section 4. Section 59-2-1208 is amended to read:

59-2-1208. Amount of homeowner's credit -- Cost-of-living adjustment --

Limitation -- ~~{General Fund}~~ State as source of credit.

(1) (a) Subject to Subsections (2) and (4), for a calendar year beginning on or after January 1, [~~2007~~] 2020, a claimant may claim a homeowner's credit that does not exceed the following amounts:

If household income is	Homeowner's credit
\$0 -- [\$9,159] <u>\$14,618</u>	[\$798] <u>\$1,012</u>
[\$9,160 -- \$12,214] <u>\$14,619 --</u> <u>\$18,493</u>	[\$696] <u>\$883</u>
[\$12,215 -- \$15,266] <u>\$18,494 --</u> <u>\$22,364</u>	[\$597] <u>\$757</u>
[\$15,267 -- \$18,319] <u>\$22,365 --</u> <u>\$26,236</u>	[\$447] <u>\$567</u>
[\$18,320 -- \$21,374] <u>\$26,237 --</u> <u>\$30,111</u>	[\$348] <u>\$441</u>
[\$21,375 -- \$24,246] <u>\$30,112 --</u> <u>\$33,754</u>	[\$199] <u>\$252</u>
[\$24,247 -- \$26,941] <u>\$33,755 --</u> <u>\$37,173</u>	[\$98] <u>\$124</u>

(b) [(†)] For a calendar year beginning on or after January 1, [~~2008~~] 2021, the commission shall increase or decrease the household income eligibility amounts and the credits under Subsection (1)(a) by a percentage equal to the percentage difference between the consumer price index housing for the preceding calendar year and the consumer price index housing for calendar year [~~2006~~] 2019.

[(ii) For purposes of Subsection (1)(b)(i), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.]

(2) An individual may not receive the homeowner's credit under this section if:

(a) the individual is claimed as a personal exemption on another individual's federal income tax return during any portion of a calendar year for which the individual seeks to claim

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the homeowner's credit under this section; or

(b) the individual is a dependent with respect to whom another individual claims a tax credit under Section 24(h)(4), Internal Revenue Code, during any portion of a calendar year for which the individual seeks to claim the homeowner's credit under this section.

(3) ~~[A payment for a]~~ The state shall pay 70% of each homeowner's credit allowed by this section, and provided for in Section 59-2-1204, ~~[shall be paid]~~ from the General Fund~~[.]~~ and 30% from the Education Fund.

(4) For a calendar year that begins on or after January 1, 2018, after the commission has adjusted the homeowner credit amount under Subsection (1)(b), the commission shall increase each homeowner credit amount under Subsection (1) by the following amounts:

- (a) for a calendar year that begins on January 1, 2018, \$14;
- (b) for a calendar year that begins on January 1, 2019, \$22;
- (c) for a calendar year that begins on January 1, 2020, \$31;
- (d) for a calendar year that begins on January 1, 2021, \$40; and
- (e) for a calendar year that begins on or after January 1, 2022, \$49.

Section 5. Section **59-2-1209** is amended to read:

59-2-1209. Amount of renter's credit -- Cost-of-living adjustment -- Renter's credit may be claimed only for rent that does not constitute a rental assistance payment -- Limitation -- General Fund as source of credit -- Maximum credit.

(1) (a) Subject to Subsections (2) and (3), for a calendar year beginning on or after January 1, ~~[2007]~~ 2020, a claimant may claim a renter's credit for the previous calendar year that does not exceed the following amounts:

If household income is	Percentage of rent allowed as a credit
\$0 -- [\$9,159] <u>\$14,618</u>	9.5%
[\$9,160 -- \$12,214] <u>\$14,619 --</u> <u>\$18,493</u>	8.5%
[\$12,215 -- \$15,266] <u>\$18,494 --</u> <u>\$22,364</u>	7.0%
[\$15,267 -- \$18,319] <u>\$22,365 --</u> <u>\$26,236</u>	5.5%

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[\$18,320 -- \$21,374] <u>\$26,237 --</u>	4.0%
<u>\$30,111</u>	
[\$21,375 -- \$24,246] <u>\$30,112 --</u>	3.0%
<u>\$33,754</u>	
[\$24,247 -- \$26,941] <u>\$33,755 --</u>	2.5%
<u>\$37,173</u>	

(b) [(†)] For a calendar year beginning on or after January 1, [~~2008~~] 2021, the commission shall increase or decrease the household income eligibility amounts under Subsection (1)(a) by a percentage equal to the percentage difference between the consumer price index housing for the preceding calendar year and the consumer price index housing for calendar year [~~2006~~] 2019.

~~[(ii) For purposes of Subsection (1)(b)(i), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.]~~

(2) A claimant may claim a renter's credit under this part only for rent that does not constitute a rental assistance payment.

(3) An individual may not receive the renter's credit under this section if the individual is:

(a) claimed as a personal exemption on another individual's federal income tax return during any portion of a calendar year for which the individual seeks to claim the renter's credit under this section; or

(b) a dependent with respect to whom another individual claims a tax credit under Section 24(h)(4), Internal Revenue Code, during any portion of a calendar year for which the individual seeks to claim the renter's credit under this section.

(4) A payment for a renter's credit allowed by this section, and provided for in Section 59-2-1204, shall be paid from the General Fund.

(5) [~~For calendar years beginning on or after January 1, 2007, a~~] A credit under this section may not exceed the maximum amount allowed as a homeowner's credit for each income bracket under Subsection 59-2-1208(1)(a).

Section 6. Section **59-2-1220** is amended to read:

59-2-1220. Extension of time for filing claim -- County authority to make refunds.

(1) The commission or a county may extend the time for filing a claim until December

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31 of the year the claim is required to be filed, if the commission or county finds that good cause exists to extend the deadline.

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

(i) "Abatement" means the amount of property taxes accrued that constitutes a tax abatement for the poor in accordance with Subsection 59-2-1202[(7)](9).

(ii) "Credit" means a homeowner's credit or renter's credit authorized by this part.

(iii) "Property taxes due" means the taxes due on a claimant's property:

(A) for which an abatement or a credit is granted by a county or the commission; and

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

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

(A) the amount of the property taxes [~~the claimant~~] paid for the taxable year for which the claimant is applying for the abatement or credit; and

(B) the amount of the abatement or credit the county or the commission grants.

(b) A county or the commission granting an abatement or a credit to a claimant shall refund to that claimant an amount equal to the amount by which the claimant's property taxes paid exceed the claimant's property taxes due, if that amount is \$1 or more.

Section 7. **Retrospective operation.**

This bill has retrospective operation to January 1, 2020.