

Senator Lincoln Fillmore proposes the following substitute bill:

PROPERTY TAX DEFERRAL MODIFICATIONS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill modifies the deferral provisions of the Property Tax Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses property tax deferral for certain owners of a single-family residence who meet specified age and income requirements;
- ▶ modifies the interest rate that applies to deferred property taxes;
- ▶ clarifies the required contents of an application for deferral; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-1801, as enacted by Laws of Utah 2019, Chapter 453

59-2-1802, as enacted by Laws of Utah 2019, Chapter 453



26 [59-2-1804](#), as enacted by Laws of Utah 2019, Chapter 453



27
28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **59-2-1801** is amended to read:

30 **59-2-1801. Definitions.**

31 As used in this part:

32 (1) "Abatement" means a tax abatement described in Section [59-2-1803](#).

33 (2) "Deferral" means a tax deferral described in Section [59-2-1802](#).

34 (3) "Eligible owner" means an owner of an attached or a detached single-family
35 residence:

36 (a) who is 75 years old or older on or before December 31 of the year for which the
37 individual applies for a deferral under this part; and

38 (b) whose household income, as defined in Section [59-2-1202](#), does not exceed 200%
39 of the maximum household income certified to a homeowner's credit described in Section
40 [59-2-1208](#).

41 ~~[(3)]~~ (4) "Indigent individual" is a poor individual as described in Utah Constitution,
42 Article XIII, Section 3, Subsection (4), who:

43 (a) (i) is at least 65 years old; or

44 (ii) is less than 65 years old and:

45 (A) the county finds that extreme hardship would prevail on the individual if the
46 county does not defer or abate the individual's taxes; or

47 (B) the individual has a disability;

48 (b) has a total household income, as defined in Section [59-2-1202](#), of less than the
49 maximum household income certified to a homeowner's credit described in ~~[Subsection~~

50 ~~[59-2-1208](#)(1)]~~ Section [59-2-1208](#);

51 (c) resides for at least 10 months of the year in the residence that would be subject to
52 the requested abatement or deferral; and

53 (d) cannot pay the tax assessed on the individual's residence when the tax becomes due.

54 ~~[(4)]~~ (5) "Property taxes due" means the taxes due on an indigent individual's property:

55 (a) for which a county granted an abatement under Section [59-2-1803](#); and

56 (b) for the calendar year for which the county grants the abatement.

57 [(5)] (6) "Property taxes paid" means an amount equal to the sum of:

58 (a) the amount of property taxes the indigent individual paid for the taxable year for
59 which the indigent individual applied for the abatement; and

60 (b) the amount of the abatement the county grants under Section 59-2-1803.

61 [(6)] (7) "Relative" means a spouse, child, parent, grandparent, grandchild, brother,
62 sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or a
63 spouse of any of these individuals.

64 [(7)] (8) "Residence" means real property where an individual resides, including:

65 (a) a mobile home, as defined in Section 41-1a-102; or

66 (b) a manufactured home, as defined in Section 41-1a-102.

67 Section 2. Section 59-2-1802 is amended to read:

68 **59-2-1802. Tax deferral.**

69 (1) (a) In accordance with this part and after giving notice to the taxpayer, a county
70 may defer a tax on residential property [~~after giving notice to the taxpayer~~], allowing the
71 taxpayer to pay the tax at a later date.

72 (b) In determining a deferral, a county shall consider an asset transferred to a relative
73 by an applicant for deferral, if the transfer took place during the three years prior to the day on
74 which the applicant applied for deferral.

75 (2) A county may grant a deferral described in Subsection (1) at any time:

76 (a) after the holder of each mortgage or trust deed outstanding on the property gives
77 written approval of the application; and

78 (b) if the applicant is not the owner of income-producing assets that could be liquidated
79 to pay the tax.

80 (3) In accordance with this part, if the conditions described in Subsection (4) are
81 satisfied, a county:

82 (a) on or after January 1, 2021, may defer a tax on an attached single-family residence
83 or a detached single-family residence; or

84 (b) on or after January 1, 2024, shall defer a tax on an attached single-family residence
85 or a detached single-family residence.

86 (4) The conditions described in Subsection (3) are as follows:

87 (a) the owner of the single-family residence is:

88 (i) an eligible owner; or
 89 (ii) a trust described in Section 59-2-1805 for which the grantor is an eligible owner;
 90 (b) the single family residence was the eligible owner's primary residence as of January
 91 1 of the year for which the eligible owner applies for a deferral;

92 (c) (i) subject to Subsection (5), the value of the single-family residence for the year for
 93 which the eligible owner applies for a deferral is no greater than 100% of the median property
 94 value of attached and detached single-family residences within the county; or

95 (ii) the eligible owner has owned the single-family residence for a continuous 20-year
 96 period as of January 1 of the year for which the eligible owner applies for a deferral; and

97 (d) the holder of each mortgage or trust deed outstanding on the single-family
 98 residence gives written approval of the deferral.

99 (5) The values described in Subsection (4)(c) are based on the county assessment roll
 100 for the county in which the single-family residence is located.

101 (6) For purposes of Subsection (4)(c)(ii), if a single-family residence is transferred
 102 between an eligible owner and a trust described in Section 59-2-1805, ownership is considered
 103 continuous if the eligible owner is the grantor of the trust.

104 ~~[(3)]~~ (7) Taxes deferred by the county accumulate with interest as a lien against the
 105 residential property, as described in Subsection ~~[(4)]~~ (8), until the owner sells or otherwise
 106 disposes of the residential property.

107 ~~[(4)]~~ (8) Deferred taxes under this section:

108 ~~[(a) bear interest at an interest rate equal to the lesser of:]~~

109 ~~[(i) 6%; or]~~

110 ~~[(ii) the federal funds rate target:]~~

111 ~~[(A) established by the Federal Open Markets Committee; and]~~

112 ~~[(B) that exists on the January 1 immediately preceding the day on which the taxes are~~
 113 ~~deferred; and]~~

114 (a) bear interest at an interest rate equal to 50% of the rate described in Subsections
 115 59-2-1331(2)(c) and (d); and

116 (b) have the same status as a lien as described in Sections 59-2-1301 and 59-2-1325.

117 ~~[(5)]~~ (9) If the owner of residential property that is granted deferral under this section is
 118 an indigent individual, during the period of deferral the county may not subject the residential

119 property to a tax sale.

120 Section 3. Section **59-2-1804** is amended to read:

121 **59-2-1804. Application for tax deferral or tax abatement.**

122 (1) (a) Except as provided in Subsection (1)(b), an applicant for deferral or abatement
123 for the current tax year shall annually file an application on or before September 1 with the
124 county in which the applicant's property is located.

125 (b) If a county finds good cause exists, the county may extend until December 31 the
126 deadline described in Subsection (1)(a).

127 (c) An indigent individual may apply and potentially qualify for deferral, abatement, or
128 both.

129 (2) (a) An applicant shall include in an application a signed statement that describes the
130 eligibility of the applicant for deferral or abatement.

131 (b) For an application for a deferral under Subsection [59-2-1802\(3\)](#), the requirements
132 described in Subsection (2)(a) include:

133 (i) proof that the applicant resides at the single-family residence for which the applicant
134 seeks the deferral;

135 (ii) proof of age; and

136 (iii) proof of household income.

137 (3) Both spouses shall sign an application if the application seeks a deferral or
138 abatement on a residence:

139 (a) in which both spouses reside; and

140 (b) that the spouses own as joint tenants.

141 (4) If an applicant is dissatisfied with a county's decision on the applicant's application
142 for deferral or abatement, the applicant may appeal the decision to the commission in
143 accordance with Section [59-2-1006](#).

144 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
145 commission may make rules to implement this section.

146 Section 4. **Retrospective operation.**

147 This bill has retrospective operation to January 1, 2021.