

## SB0025S02 compared with SB0025S01

~~text~~ shows text that was in SB0025S01 but was deleted in SB0025S02.

text shows text that was not in SB0025S01 but was inserted into SB0025S02.

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Senator Lincoln Fillmore proposes the following substitute bill:

### PROPERTY TAX DEFERRAL AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lincoln Fillmore**

House Sponsor: \_\_\_\_\_

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#### 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;
- ▶ modifies the interest rate that applies to deferred property taxes;
- ▶ clarifies the required contents of an application for a deferral;
- ▶ directs the State Tax Commission to reimburse a requesting county for the amount of any property taxes that the county defers during a specified time period;
- ▶ addresses repayment of any money a county receives; and
- ▶ makes technical and conforming changes.

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### Money Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- ▶ to the Utah State Tax Commission -- Tax Administration -- Property Tax Deferral, as a one-time appropriation:
  - from the General Fund \$10,000,000.

### 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

**59-2-1804**, as enacted by Laws of Utah 2019, Chapter 453

**63I-2-263**, as last amended by Laws of Utah 2021, First Special Session, Chapter 4

**63J-1-602.2**, as last amended by Laws of Utah 2021, Chapters 179, 344, 412, 421, and 424

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

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

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

As used in this part:

- (1) "Abatement" means a tax abatement described in Section 59-2-1803.
- (2) "Deferral" means a tax deferral described in Section 59-2-1802.
- (3) "Eligible owner" means an owner of an attached or a detached single-family

residence:

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

(b) whose household income does not exceed 200% of the maximum household income certified to a homeowner's credit described in Section 59-2-1208; and

(c) whose household liquid resources do not exceed 20 times the amount of property taxes levied on the owner's residence for the preceding calendar year.

- (4) "Household" means the same as that term is defined in Section 59-2-1202.

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(5) "Household income" means the same as that term is defined in Section 59-2-1202.

(6) "Household liquid resources" means the following resources that are not included in an individual's household income and held by one or more members of the individual's household:

(a) cash on hand;

(b) money in a checking or savings account;

(c) savings certificates;

(d) stocks or bonds; and

(e) lump sum payments.

~~[(3)]~~ (7) "Indigent individual" is a poor individual as described in Utah Constitution, Article XIII, Section 3, Subsection (4), who:

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

(ii) is less than 65 years old and:

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

(B) the individual has a disability;

(b) has a total household income, as defined in Section 59-2-1202, of less than the maximum household income certified to a homeowner's credit described in ~~[Subsection 59-2-1208(1)]~~ Section 59-2-1208;

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

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

~~[(4)]~~ (8) "Property taxes due" means the taxes due on an indigent individual's property:

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

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

~~[(5)]~~ (9) "Property taxes paid" means an amount equal to the sum of:

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

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

~~[(6)]~~ (10) "Relative" means a spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or a

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spouse of any of these individuals.

~~[(7)]~~ (11) "Residence" means real property where an individual resides, including:

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

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

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

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

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

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

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

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

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

(a) on or after January 1, 2022, may defer a tax on an attached single-family residence or a detached single-family residence; or

(b) on or after January 1, 2025, shall defer a tax on an attached single-family residence or a detached single-family residence.

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

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

(i) an eligible owner; or

(ii) a trust described in Section 59-2-1805 for which the grantor is an eligible owner;

(b) the single-family residence was the eligible owner's primary residence as of January 1 of the year for which the eligible owner applies for a deferral;

(c) (i) subject to Subsection (5), the value of the single-family residence for the year for which the eligible owner applies for a deferral is no greater than 100% of the median property

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value of attached and detached single-family residences within the county; or

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

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

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

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

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

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

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

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

~~[(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; and]~~

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

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

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

(10) (a) Upon written application from a county in a form prescribed by the commission, the commission shall reimburse the county for the amount of any tax that the county defers in accordance with Subsections (3) through (6).

(b) The commission may not reimburse a county for:

(i) an amount of a tax before the county grants the eligible owner a deferral of the tax;

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or

(ii) a tax assessed after December 31, 2026.

(11) A county that receives money in accordance with this section for a deferred tax

shall:

(a) distribute the money to the taxing entities in the same proportion the county would have distributed the revenue from the deferred tax; and

(b) repay the money:

(i) in an amount equal to the amount necessary to satisfy the lien described in

Subsection (7) as of the earlier of:

(A) the day on which the county repays the money; or

(B) the day on which the lien described in Subsection (7) is satisfied; and

(ii) no later than June 30 of the calendar year immediately following the calendar year in which the lien described in Subsection (7) is satisfied.

~~(12) If a county fails to timely repay money in accordance with Subsection (11), the commission may withhold money from a distribution to the county under Section 59-12-205 to satisfy the delinquent amount.~~

~~(13) The commission shall deposit money received under this subsection into the General Fund.~~

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

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

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

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

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

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

(b) For an application for a deferral under Subsection 59-2-1802(3), the requirements described in Subsection (2)(a) include:

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

(ii) proof of age; and

(iii) proof of household income.

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

(a) in which both spouses reside; and

(b) that the spouses own as joint tenants.

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

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

Section 4. Section **63I-2-263** is amended to read:

**63I-2-263. Repeal dates, Title 63A to Title 63N.**

(1) Section 63A-3-111 is repealed June 30, 2021.

(2) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2021.

(3) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

(4) Section 63G-1-502 is repealed July 1, 2022.

(5) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2022:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

(6) Section 63H-7a-303 is repealed July 1, 2024.

(7) Subsection 63J-1-206(3)(c), relating to coronavirus, is repealed July 1, 2021.

(8) Subsection 63J-1-602.2(42), which lists appropriations to the State Tax Commission for property tax deferral reimbursements, is repealed July 1, 2027.

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~~[(8)]~~ (9) Sections 63M-7-213 and 63M-7-213.5 are repealed on January 1, 2023.

~~[(9)]~~ (10) Section 63M-7-217 is repealed on July 1, 2022.

~~[(10)]~~ (11) Title 63N, Chapter 13, Part 3, Facilitating Public-private Partnerships Act, is repealed January 1, 2024.

~~[(11)]~~ (12) Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, is repealed December 31, 2021.

Section 5. Section **63J-1-602.2** is amended to read:

### **63J-1-602.2. List of nonlapsing appropriations to programs.**

Appropriations made to the following programs are nonlapsing:

- (1) The Legislature and the Legislature's committees.
- (2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.
- (3) The Percent-for-Art Program created in Section 9-6-404.
- (4) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.
- (5) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).
- (6) The Trip Reduction Program created in Section 19-2a-104.
- (7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.
- (8) The ~~[emergency medical services grant program]~~ Emergency Medical Services Grant Program in Section 26-8a-207.
- (9) The primary care grant program created in Section 26-10b-102.
- (10) Sanctions collected as dedicated credits from Medicaid ~~[provider]~~ providers under Subsection 26-18-3(7).
- (11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.
- (12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.
- (13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.
- (14) Funds that the Department of Alcoholic Beverage Control retains in accordance



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with Subsection 32B-2-301(9)(a) or (b).

(15) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(16) The Utah National Guard, created in Title 39, Militia and Armories.

(17) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(18) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(19) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(20) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(21) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

(22) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(23) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(24) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(25) [~~Appropriations to the~~] The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(26) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(27) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(28) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(29) [~~Appropriations to fund the~~] The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(30) [~~Appropriations to fund programs~~] Programs for the Jordan River Recreation Area

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as described in Section 65A-2-8.

(31) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(32) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(33) The Traffic Noise Abatement Program created in Section 72-6-112.

(34) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(35) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(36) A state rehabilitative employment program, as provided in Section 78A-6-210.

(37) The Utah Geological Survey, as provided in Section 79-3-401.

(38) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(39) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(40) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(41) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

(42) The State Tax Commission for reimbursing counties for deferred property taxes in accordance with Section 59-2-1802.

### **Section 6. Appropriations.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

### **ITEM 1**

## **SB0025S02 compared with SB0025S01**

To Utah State Tax Commission -- Tax Administration

From General Fund, One-time \$10,000,000

Schedule of Programs:

Property Tax Deferral \$10,000,000

The Legislature intends that:

(1) appropriations provided under this section be used to reimburse counties for deferred property taxes in accordance with Section 59-2-1802; and

(2) under Section 63J-1-603, appropriations provided under this section not lapse at the close of fiscal year 2023 and the use of any nonlapsing funds is limited to reimbursing counties for deferred property taxes in accordance with Section 59-2-1802.

Section 7. **Retrospective operation.**

This bill has retrospective operation to January 1, 2022.