

SB0081S02 compared with SB0081

~~text~~ shows text that was in SB0081 but was deleted in SB0081S02.

inserted text shows text that was not in SB0081 but was inserted into SB0081S02.

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Senator Lincoln Fillmore proposes the following substitute bill:

PROPERTY TAX DEFERRAL REVISIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to property tax deferral.

Highlighted Provisions:

This bill:

- ▶ modifies defined terms;
- ▶ addresses when deferred property taxes come due;
- ▶ allows a surviving spouse to take ownership of residential property without triggering an obligation to repay deferred property taxes;
- ▶ clarifies the requirements for recording and maintaining a lien securing payment of deferred property taxes;
- ▶ for certain deferrals, requires the owner be current on all property tax and tax notice charges;

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- ▶ establishes penalties for providing false information to a county related to a deferral or an abatement; 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 last amended by Laws of Utah 2022, Chapter 242

59-2-1802, as last amended by Laws of Utah 2022, Chapter 242

59-2-1804, as last amended by Laws of Utah 2022, Chapter 242

63I-2-263, as last amended by Laws of Utah 2022, Chapters 63, 209, 240, 242, 264, 354, and 435

63J-1-602.2, as last amended by Laws of Utah 2022, Chapters 59, 68, 154, 224, 236, 242, and 447 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 154

ENACTS:

59-2-1802.5, Utah Code Annotated 1953

59-2-1806, Utah Code Annotated 1953

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~~] postponement of a tax due date granted in accordance with Section 59-2-1802 or 59-2-1802.5.

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

(a) (i) who is 75 years old or older on or before December 31 of the year in which the

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individual applies for a deferral under this part;

~~[(b)]~~ (ii) 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)]~~ (iii) 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~~[-];~~ or

(b) that is a trust described in Section 59-2-1805 if the grantor of the trust is an individual described in Subsection (3)(a).

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

(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; and

(d) stocks or bonds~~[-and]~~.

~~[(e) lump sum payments.]~~

(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 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.

(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

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

(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.

(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 spouse of any of these individuals.

(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 - County discretion to grant deferral - Creation of lien and due date.

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

(b) In determining ~~[a deferral]~~ whether to grant an application for a deferral under this section, 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]~~ before 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~~

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~~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 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.]~~

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

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

~~[(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.]~~

~~[(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~~

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~~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; 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) The commission shall deposit money received under this section into the General Fund.]~~

(3) (a) Taxes deferred under this part accumulate with interest and applicable recording fees as a lien against the residential property.

(b) A lien described in this Subsection (3) has the same legal status as a lien described in Section 59-2-1325.

(c) To release the lien described in this Subsection (3), an owner shall pay the total amount subject to the lien:

(i) upon the owner selling or otherwise disposing of the residential property; or

(ii) when the residential property is no longer the owner's primary residence.

(d) (i) Notwithstanding Subsection (3)(c), an owner that receives a deferral does not have to pay the deferred taxes and applicable recording fees when the residential property transfers:

(A) to the owner's surviving spouse as a result of the owner's death; or

(B) between the owner and a trust described in Section 59-2-1805 for which the owner

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is the grantor.

(ii) After the residential property transfers to the owner's surviving spouse, the deferred taxes and applicable recording fees are due:

(A) upon the surviving spouse selling or otherwise disposing of the residential property; or

(B) when the residential property is no longer the surviving spouse's primary residence.

(e) When the deferral period ends:

(i) the lien becomes due as a property tax subject to the collection procedures described in Section 59-2-1331; and

(ii) the date of levy is the date that the deferral period ends.

(4) (a) If a county grants an owner more than one deferral for the same single-family residence, the county is not required to submit for recording more than one lien.

(b) Each subsequent deferral relates back to the date of the initial lien filing.

(5) (a) For each residential property for which the county grants a deferral, the treasurer shall maintain a record that is an itemized account of the total amount subject to the lien for deferred property taxes.

(b) The record described in this Subsection (5) is the official record of the amount of the lien.

(6) Taxes deferred under this part bear interest at a rate equal to 50% of the rate described in Subsections 59-2-1331(2)(c) and (d).

Section 3. Section **59-2-1802.5** is enacted to read:

59-2-1802.5. Nondiscretionary tax deferral for elderly property owners.

(1) An eligible owner may apply for a deferral under this section if:

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

(b) with respect to the single-family residence, there are no:

(i) delinquent property taxes;

(ii) delinquent tax notice charges; or

(iii) outstanding penalties, interest, or administrative costs related to a delinquent property tax or a delinquent tax notice charge;

(c) (i) the value of the single-family residence for which the eligible owner applies for

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the deferral is no greater than the median property value of:

(A) attached single-family residences within the county, if the single-family residence is an attached single-family residence; or

(B) detached single-family residences within the county, if the single-family residence is a detached single-family residence; 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 the deferral; and

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

(2) If the conditions in Subsection (1) are satisfied and the applicant complies with the other applicable provisions of this part:

(a) a county shall defer the property tax on an attached single-family residence or a detached single-family residence for an application of deferral made on or after January 1, 2024; and

(b) a county may defer the property tax on an attached single-family residence or a detached single-family residence for an application of deferral made before January 1, 2024.

(3) The values described in Subsection (1)(c) are based on the county assessment roll for the county in which the single-family residence is located.

(4) For purposes of Subsection (1)(c)(ii), ownership is considered continuous regardless of whether the single-family residence is transferred between an eligible owner who is an individual and an eligible owner that is a trust.

(5) (a) Upon 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 this section.

(b) The commission may not reimburse a county:

(i) before the county approves the deferral; or

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

(c) A county that receives money in accordance with this Subsection (5) shall:

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

(ii) repay the money no later than 30 days after the day on which the deferral lien is

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satisfied.

(d) The commission shall deposit money received under Subsection (5)(c)(ii) into the General Fund.

Section 4. 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) or (2), 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) A county shall extend the default application deadline by one additional year if the applicant had been approved for a deferral under this part in the prior year; or

(b) the county determines that:

(i) the applicant or a member of the applicant's immediate family had an illness or injury that prevented the applicant from filing the application on or before the default application deadline;

(ii) a member of the applicant's immediate family died during the calendar year of the default application deadline;

(iii) the failure of the applicant to file the application on or before the default application deadline was beyond the reasonable control of the applicant; or

(iv) denial of an application would be unjust or unreasonable.

~~[(2)]~~ (3) (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)] Section 59-2-1802.5, the requirements described in Subsection (2)(a) include:~~

(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.

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~~[(3)]~~[(4)] 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)]~~[(5)] 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)]~~[(6)] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to implement this section.

Section 5. Section **59-2-1806** is enacted to read:

59-2-1806. Fraudulent or negligent representation - Penalties and interest.

(1) If a county determines that a person knowingly provided false information to the county related to a requirement under this part, the county shall:

- (a) deny or revoke any deferral or abatement related to the false information; and
- (b) recover by assessment the amount of the claimed or granted deferral or abatement, plus interest that accrues at a rate of 1% per month beginning the day on which the person knowingly provided the false information.

(2) If a county determines that a person negligently provided false information to the county related to a requirement under this part, the county shall:

- (a) reduce by 10% the amount of any deferral or abatement for which the person is eligible and that relates to the false information; and
- (b) recover by assessment the amount of any deferral or abatement the county approved in reliance on the false information that exceeds the amount to which the person is entitled, plus interest that accrues at a rate of 1% per month beginning the day on which the deferral or abatement was approved.

Section 6. Section **63I-2-263** is amended to read:

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

- (1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2025.
- (2) Section 63A-17-303 is repealed July 1, 2023.
- (3) Subsection 63A-17-304(1)(c) is repealed July 1, 2022.

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

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

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

(a) Section 63G-1-801;

(b) Section 63G-1-802;

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

(d) Section 63G-1-804.

~~[(7) Title 63H, Chapter 5, Utah State Railroad Museum Authority, is repealed on July 1, 2022.]~~

~~[(8) (7) Section 63H-7a-303 is repealed July 1, 2024.~~

~~[(9) (8) Subsection 63H-7a-403(2)(b), regarding the charge to maintain the public safety communications network, is repealed July 1, 2033.~~

~~[(10) (9) Subsection [63J-1-602.2(44)] 63J-1-602.2(43), which lists appropriations to the State Tax Commission for property tax deferral reimbursements, is repealed July 1, 2027.~~

~~[(11) (10) Sections 63M-7-213 and 63M-7-213.5 are repealed January 1, 2023.~~

~~[(12) (11) Section 63M-7-217 is repealed July 1, 2022.~~

~~[(13) (12) Subsection 63N-2-213(12)(a), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.~~

~~[(14) (13) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an Enterprise Zone, is repealed December 31, 2024.~~

Section 7. 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

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4-46- 301.

(5) The Utah Lake Authority created in Section 11-65-201.

(6) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(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 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 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) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26-69-403;

(b) provision of medical residency grants described in Section 26-69-407; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26-69-408.

(15) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

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

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

(18) 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.

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

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

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- (21) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.
- (22) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).
- (23) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.
- (24) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.
- (25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.
- (26) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.
- (27) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.
- (28) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.
- (29) 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.
- (30) 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.
- (31) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.
- (32) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.
- (33) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.
- (34) The Traffic Noise Abatement Program created in Section 72-6-112.
- (35) 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.
- (36) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.
- (37) A state rehabilitative employment program, as provided in Section 78A-6-210.

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

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

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

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

(42) 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.

(43) The State Tax Commission for reimbursing counties for deferred property taxes in accordance with Section [~~59-2-1802~~] 59-2-1802.5.

Section 8. Retrospective operation.

This bill provides retrospective operation to January 1, 2023.