

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



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

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 for which the individual applies for a deferral under this part; and

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

~~[(3)]~~ (4) "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)]~~ (5) "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)~~] (6) "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)~~] (7) "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.

[~~(7)~~] (8) "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, 2021, may defer a tax on an attached single-family residence or a detached single-family residence; or

(b) on or after January 1, 2024, 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:

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

property to a tax sale.

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:

(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. Retrospective operation.

This bill has retrospective operation to January 1, 2021.