

CIRCUIT BREAKER AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gene Davis

House Sponsor: Robert M. Spendlove

LONG TITLE

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; and
- ▶ makes technical changes.

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

59-2-1220, 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.

29 As used in this part:

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

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

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

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

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

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

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

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

42 (i) regardless of:

43 (A) the age of the surviving spouse; or

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

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

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

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

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

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

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

63 (3) (a) "Homeowner" means:

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

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

67 (b) "Homeowner" does not include:

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

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

72 ~~[(3)]~~ (4) "Homeowner's credit" means a credit against a claimant's property tax
73 liability.

74 ~~[(4)]~~ (5) "Household" means the association of ~~[persons]~~ individuals who live in the
75 same dwelling, sharing ~~[its]~~ the dwelling's furnishings, facilities, accommodations, and
76 expenses.

77 ~~[(5)]~~ (6) "Household income" means all income received by all ~~[persons of a]~~ members
78 of a claimant's household in:

79 (a) for a claimant who owns a residence, the calendar year preceding the calendar year
80 in which property taxes are due; or

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

83 ~~[(6)]~~ (7) (a) (i) "Income" means the sum of:
84 (A) federal adjusted gross income as defined in Section 62, Internal Revenue Code;
85 and
86 (B) all nontaxable income as defined in Subsection ~~[(6)]~~ (7)(b).
87 (ii) "Income" does not include:
88 (A) aid, assistance, or contributions from a tax-exempt nongovernmental source;
89 (B) surplus foods;
90 (C) relief in kind supplied by a public or private agency; or
91 (D) relief provided under this part or Part 18, Tax Deferral and Tax Abatement.
92 (b) For purposes of Subsection ~~[(6)]~~ (7)(a)(i), "nontaxable income" means amounts
93 excluded from adjusted gross income under the Internal Revenue Code, including:
94 (i) capital gains;
95 (ii) loss carry forwards claimed during the taxable year in which a claimant files for
96 relief under this part or Part 18, Tax Deferral and Tax Abatement;
97 (iii) depreciation claimed pursuant to the Internal Revenue Code by a claimant on the
98 residence for which the claimant files for relief under this part or Part 18, Tax Deferral and Tax
99 Abatement;
100 (iv) support money received;
101 (v) nontaxable strike benefits;
102 (vi) cash public assistance or relief;
103 (vii) the gross amount of a pension or annuity, including benefits under the Railroad
104 Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq., and veterans disability pensions;
105 (viii) payments received under the Social Security Act;
106 (ix) state unemployment insurance amounts;
107 (x) nontaxable interest received from any source;
108 (xi) workers' compensation;
109 (xii) the gross amount of "loss of time" insurance; and

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

111 ~~[(7)]~~ (8) (a) "Property taxes accrued" means property taxes, exclusive of special
112 assessments, delinquent interest, and charges for service, levied on 35% of the fair market
113 value, as reflected on the assessment roll, of a claimant's residence in this state.

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

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

120 ~~[(ii) (c) The [amount] relief described in Subsection (7)(c)(i) (8)(a) constitutes:~~

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

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

124 (d) (i) For purposes of this Subsection ~~[(7)]~~ (8), property taxes accrued are levied on
125 the lien date.

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

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

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

135 (ii) For purposes of this Subsection ~~[(7)]~~ (8)(f), "unit" refers to the parcel of property
136 covered by a single tax statement of which the residence is a part.

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

139 (a) makes a claim under this part;

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

142 (i) by:

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

144 (B) a nonadverse party; or

145 (C) both the individual and a nonadverse party; and

146 (ii) regardless of whether the power is a power:

147 (A) to revoke;

148 (B) to terminate;

149 (C) to alter;

150 (D) to amend; or

151 (E) to appoint; and

152 (c) is obligated to pay the taxes on that portion of the trust property beginning January
153 1 of the year the individual makes the claim.

154 ~~[(8)]~~ (10) (a) As used in this section, "rental assistance payment" means any payment
155 that:

156 (i) is made by a:

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

158 (B) ~~[(F)]~~ charitable organization; or

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

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

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

162 and

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

164 (I) claimant; or

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

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

168 (i) "governmental entity";

169 (ii) "charitable organization"; or

170 (iii) "religious organization."

171 ~~[(9)]~~ (11) (a) (i) "Residence" means the dwelling, whether owned or rented, and so
172 much of the land surrounding ~~[it]~~ the dwelling, not exceeding one acre, as is reasonably
173 necessary for use of the dwelling as a home~~[-and may consist of]~~.

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

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

177 (B) a mobile home or houseboat.

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

180 (c) For purposes of this Subsection ~~[(9)]~~ (11), "owned" includes a vendee in possession
181 under a land contract or one or more joint tenants or tenants in common.

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

183 **59-2-1203. Right to file claim -- Death of claimant.**

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

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

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

187 (i) a legal guardian of the claimant; or

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

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

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

195 (3) If the claimant is the grantor ~~[of a trust holding title to real or tangible personal~~
196 ~~property on which a credit is claimed],~~ trustor, or settlor of or holds another similar role in a
197 qualifying trust and the claimant meets the requirements of this part, the claimant may claim
198 the portion of the credit and be treated as the owner of that portion of the property held in trust
199 ~~[for which the claimant proves to the satisfaction of the county that:].~~

200 ~~[(a) title to the portion of the trust will revert in the claimant upon the exercise of a~~
201 ~~power:]~~

202 ~~[(i) by:]~~

203 ~~[(A) the claimant as grantor of the trust;]~~

204 ~~[(B) a nonadverse party; or]~~

205 ~~[(C) both the claimant and a nonadverse party; and]~~

206 ~~[(ii) regardless of whether the power is a power:]~~

207 ~~[(A) to revoke;]~~

208 ~~[(B) to terminate;]~~

209 ~~[(C) to alter;]~~

210 ~~[(D) to amend; or]~~

211 ~~[(E) to appoint;]~~

212 ~~[(b) the claimant is obligated to pay the taxes on that portion of the trust property~~
213 ~~beginning January 1 of the year the claimant claims the credit; and]~~

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

215 (4) The ~~[amount]~~ relief described in Subsection ~~59-2-1202[(7)(c)(i)](8)(a)~~ is in
216 addition to any other exemption or reduction for which a homeowner may be eligible,
217 including the homeowner's credit provided for in Section ~~59-2-1206~~.

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

219 **59-2-1206. Application for homeowner's credit -- Time for filing -- Payment from**
220 **General Fund.**

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

223 (b) The application under this section shall:

224 (i) be on forms provided by:

225 (A) the commission; or

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

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

228 (A) the income statement is correct; and

229 (B) the claimant qualifies for the credit.

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

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

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

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

241 (ii) A county may not obtain payment from the General Fund for the amount described
242 in Subsection 59-2-1202[~~(7)~~](8).

243 (b) Upon certification by the commission the payment for the credits under this
244 Subsection (2) shall be made to the county on or before January 1 if the list of claimants and

245 the credits granted are received by the commission on or before November 30 of the year in
246 which the credits under this part are granted.

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

250 Section 4. Section **59-2-1220** is amended to read:

251 **59-2-1220. Extension of time for filing claim -- County authority to make refunds.**

252 (1) The commission or a county may extend the time for filing a claim until December
253 31 of the year the claim is required to be filed, if the commission or county finds that good
254 cause exists to extend the deadline.

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

256 (i) "Abatement" means the amount of property taxes accrued that constitutes a tax
257 abatement for the poor in accordance with Subsection [59-2-1202](#)~~(7)~~(8).

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

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

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

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

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

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

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

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

269 Section 5. **Retrospective operation.**

270 This bill has retrospective operation to January 1, 2020.