

**59-2-1109 Indigent persons -- Deferral or abatement -- Application -- County authority to make refunds.**

- (1) A person under the age of 65 years is not eligible for a deferral or abatement provided for poor people under Sections 59-2-1107 and 59-2-1108 unless:
  - (a) the county finds that extreme hardship would prevail if the grants were not made; or
  - (b) the person has a disability.
- (2)
  - (a) An application for the deferral or abatement shall be filed on or before September 1 with the county in which the property is located.
  - (b) The application shall include a signed statement setting forth the eligibility of the applicant for the deferral or abatement.
  - (c) Both husband and wife shall sign the application if the husband and wife seek a deferral or abatement on a residence:
    - (i) in which they both reside; and
    - (ii) which they own as joint tenants.
  - (d) A county may extend the deadline for filing under Subsection (2)(a) until December 31 if the county finds that good cause exists to extend the deadline.
- (3)
  - (a) For purposes of this Subsection (3):
    - (i) "Property taxes due" means the taxes due on a person's property:
      - (A) for which an abatement is granted by a county under Section 59-2-1107; and
      - (B) for the calendar year for which the abatement is granted.
    - (ii) "Property taxes paid" is an amount equal to the sum of:
      - (A) the amount of the property taxes the person paid for the taxable year for which the person is applying for the abatement; and
      - (B) the amount of the abatement the county grants under Section 59-2-1107.
  - (b) A county granting an abatement to a person under Section 59-2-1107 shall refund to that person an amount equal to the amount by which the person's property taxes paid exceed the person's property taxes due, if that amount is \$1 or more.
- (4) For purposes of this section:
  - (a) a poor person is any person:
    - (i) whose total household income as defined in Section 59-2-1202 is less than the maximum household income certified to a homeowner's credit under Subsection 59-2-1208(1);
    - (ii) who resides for not less than 10 months of each year in the residence for which the tax relief, deferral, or abatement is requested; and
    - (iii) who is unable to meet the tax assessed on the person's real property that is residential property as the tax becomes due; and
  - (b) "residence" includes a mobile home as defined under Section 70D-2-102.
- (5) If the claimant is the grantor of a trust holding title to real or tangible personal property on which an abatement or deferral is claimed, the claimant may claim the portion of the abatement or deferral under Section 59-2-1107 or 59-2-1108 and be treated as the owner of that portion of the property held in trust for which the claimant proves to the satisfaction of the county that:
  - (a) title to the portion of the trust will revert in the claimant upon the exercise of a power:
    - (i) by:
      - (A) the claimant as grantor of the trust;
      - (B) a nonadverse party; or
      - (C) both the claimant and a nonadverse party; and
    - (ii) regardless of whether the power is a power:

- (A) to revoke;
- (B) to terminate;
- (C) to alter;
- (D) to amend; or
- (E) to appoint;
- (b) the claimant is obligated to pay the taxes on that portion of the trust property beginning January 1 of the year the claimant claims the abatement or deferral; and
- (c) the claimant meets the requirements under this part for the abatement or deferral.
- (6) The commission shall adopt rules to implement this section.
- (7) Any poor person may qualify for:
  - (a) the deferral of taxes under Section 59-2-1108;
  - (b) if the person meets the requisites of this section, for the abatement of taxes under Section 59-2-1107; or
  - (c) both:
    - (i) the deferral described in Subsection (7)(a); and
    - (ii) the abatement described in Subsection (7)(b).

Amended by Chapter 19, 2013 General Session

Amended by Chapter 278, 2013 General Session