
A BILL FOR AN ACT

RELATING TO REAL PROPERTY TAX.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Hawaii Revised Statutes, is amended by adding a
2 new chapter to be appropriately designated and to read as
3 follows:

4 **"CHAPTER**

5 **THE SENIOR CITIZENS AND DISABLED PERSONS**

6 **PROPERTY TAX RELIEF ACT**

7 § -1 **Findings and purpose.** The Senior Citizens and
8 Disabled Persons Property Tax Relief Act establishes a property
9 tax relief program or "circuit breaker" to assist low-income
10 senior citizens and disabled persons with the burden of high
11 property taxes.

12 § -2 **Definitions.** As used in this chapter, the
13 following terms have the following meanings unless the context
14 indicates otherwise:

15 "Additional resident" means any person who is not filing a
16 separate claim for the same claim year under this chapter and
17 who is living in the same residence with a claimant and for whom



1 the household has provided more than half of that person's total
2 financial support for a claim year.

3 "Beneficiary" means a person whose claim for a property tax
4 grant under this chapter has been approved by the department.

5 "Claim" means an original paper application for a property
6 tax grant.

7 "Claimant" means a person who has filed a claim for a
8 property tax grant under this chapter.

9 "Claim year" means the calendar year prior to the year in
10 which a claimant files a claim for a property tax grant.

11 "Department" means the department of taxation.

12 "Director" means the director of taxation.

13 "Disabled person" means a person who is unable to engage in
14 any substantial gainful activity by reason of a medically
15 determinable physical or mental impairment that can be expected
16 to result in death or has lasted or can be expected to last for
17 a continuous period of not less than twelve months.

18 "Domiciled" means having a fixed habitation at a permanent
19 residence in the State during the claim year.

20 "Electronic application" means a claim filed electronically
21 pursuant to this chapter.



1 "Household" means a claimant or a claimant and the
2 claimant's spouse living together in the same residence.

3 "Household income" means the combined income of the members
4 of a household for a claim year.

5 "Income" means adjusted gross income, properly reportable
6 for federal income tax purposes under the Internal Revenue Code
7 of 1986, as amended, modified by adding the sum of the following
8 amounts to the extent deducted or excluded from gross income in
9 the computation of adjusted gross income:

- 10 (1) All amounts paid or accrued as interest or dividends
11 during the claim year;
- 12 (2) The amount of tax imposed by the state income tax for
13 the claim year;
- 14 (3) All amounts received during the claim year as an
15 annuity under an annuity, endowment or life insurance
16 contract or under any other contract or agreement;
- 17 (4) The amount of benefits paid under the federal Social
18 Security Act during the claim year;
- 19 (5) The total amount of cash public assistance payments
20 received from any governmental agency during the claim
21 year other than benefits received pursuant to this
22 chapter;

- 1 (6) Any net operating loss carryover deduction or capital
2 loss carryover deduction during the claim year; and
3 (7) Any benefits received under workers' compensation
4 claims during the claim year.

5 "Program" means the property tax relief program or "circuit
6 breaker" provided for under this chapter.

7 "Property taxes accrued" means the property taxes assessed
8 against a residence payable or paid by a claimant for the claim
9 year, excluding exemptions.

10 "Residence" means the principal dwelling place occupied by
11 a household in the State during the claim year and so much of
12 the surrounding land as is reasonably necessary for use of that
13 dwelling as a home, including a specific legal description for a
14 portion of property established by an assessor as constituting a
15 residence; or the portion of assisted living, nursing,
16 retirement, or shelter care homes occupied as a dwelling by a
17 claimant.

18 "Taxable year" means the claim year.

19 "Verified internet filer" means a person who properly files
20 a claim electronically and receives a confirmation number from
21 the department acknowledging transmission of a timely filed
22 electronic application.



1 § -3 **Claimant eligibility qualifications.** In order to
2 be eligible to participate in this program, each claimant shall:

3 (1) File a timely claim in accordance with this chapter;

4 (2) Meet one of the following requirements:

5 (A) Be sixty-five years of age or older prior to
6 January 1 of the calendar year in which a claim
7 is filed;

8 (B) Become sixty-five years of age during the
9 calendar year in which a claim is filed;

10 (C) Be the surviving spouse of a claimant, who at the
11 time of death received or was entitled to receive
12 a property tax grant, which surviving spouse will
13 become sixty-five years of age within the twenty-
14 four months immediately following the death of a
15 claimant and which surviving spouse, but for the
16 surviving spouse's age, is otherwise qualified to
17 receive a property tax grant; or

18 (D) Be disabled prior to January 1 of the calendar
19 year in which a claim is filed;

20 (3) Have lived in a residence in the State during the
21 claim year for which the claimant's household is
22 liable for the payment of property taxes accrued;



1 (4) Be domiciled in the State at the time the claimant
2 files a claim; and

3 (5) Have a maximum household income of less than \$.

4 § -4 **Claim filing procedures.** (a) A claim for a
5 property tax grant under this chapter shall be filed on the
6 appropriate paper or electronic forms approved by the department
7 in a timely manner. The claim shall be filed after January 1
8 but on or before December 31 of the calendar year following the
9 claim year.

10 (b) Only one claimant may file a claim for each household
11 for a claim year. If more than one person in a household is
12 eligible to file a claim under this chapter, they shall
13 determine which of them shall file the claim for the claim year
14 as the claimant. For example, if a married claimant lives with
15 the claimant's spouse in the same residence as of the end of a
16 claim year, they shall file jointly and list their combined
17 income on the claim.

18 (c) A claim for a property tax grant terminates at the
19 death of a claimant. A claim cannot be filed subsequently by
20 the claimant's estate in probate or intestacy proceedings. A
21 claim for a property tax grant may also be filed on behalf of a



1 claimant by a person holding power of attorney to do so or by
2 the person's guardian or legal counsel.

3 (d) A claimant shall submit proof of the claimant's
4 eligibility qualifications, including proof of date of birth,
5 which may include:

- 6 (1) A baptismal record;
- 7 (2) A birth certificate;
- 8 (3) A driver's license;
- 9 (4) An identification card issued by the State;
- 10 (5) An insurance policy;
- 11 (6) Naturalization papers; or
- 12 (7) A passport.

13 (e) If applicable, a claimant shall submit proof of the
14 claimant's disability, which may include:

- 15 (1) Proof that a claimant is eligible to receive
16 disability benefits under the federal Social Security
17 Act of 1935; or
- 18 (2) Status of the claimant as a disabled person determined
19 by a physician designated by the department using the
20 standards of the Social Security Administration with
21 the costs of any required examination paid by the
22 claimant.



1 § -5 **Amended claims.** An amended claim for a property
2 tax grant shall be filed in a timely manner on the appropriate
3 forms approved by the department. An amended claim may be filed
4 for the current claim year and three prior claim years.

5 § -6 **Appeal rights.** (a) Any claimant or beneficiary
6 aggrieved by action of the department under this chapter,
7 whether in the denial of a claim or amended claim, or in the
8 determination of the amount of the grant, may request in writing
9 that the department reconsider its action, setting out the facts
10 on which the request is based. The department shall consider
11 the request and either affirm or modify its action.

12 (b) The decision by the department to affirm its action,
13 or the failure of the department to act on a request for
14 reconsideration within sixty days, is a final administrative
15 decision that is subject to judicial review.

16 § -7 **Property tax grant determinations** (a) Except as
17 otherwise provided in this section, the maximum amount of a
18 property tax grant as determined by the department is limited to
19 the least of the following amounts:

20 (1) The amount by which property taxes accrued upon a
21 beneficiary's residence for a claim year exceeds



1 per cent of the beneficiary's household income for
2 that year; or

3 (2) An amount equal to \$ less per cent of a
4 beneficiary's household income for a claim year for
5 those with a household income of \$ or less, and
6 \$ for those with a household income of more than
7 \$ but less than \$.

8 (b) If a beneficiary became sixty-five years old during
9 the calendar year in which a claim is filed, the maximum amount
10 of a property tax grant is equal to one-half of the amount
11 provided in this section that otherwise would have been
12 determined by the department, multiplied by the number of months
13 in that year (including the month of birth) in which the
14 beneficiary was sixty-five.

15 (c) If a beneficiary's household income in one or more
16 months during a claim year includes cash assistance (excluding
17 funds received from the federal supplemental security income in
18 excess of \$ per month from the department of human services
19 which was determined on a measure of need including an allowance
20 for property taxes paid, the maximum amount of a property tax
21 grant is equal to the product of the amount provided in this
22 section that otherwise would have been determined by the

1 department, multiplied by the ratio of the number of months in
2 that year in which the beneficiary's household income did not
3 include such assistance to the number twelve.

4 (d) In determining the maximum amount of a property tax
5 grant under this section, the amount used by the department in
6 its computations for property tax accrued is prorated or
7 recalculated as follows:

8 (1) If title to a residence during a claim year is held
9 jointly by a beneficiary with a person who is not a
10 member of the beneficiary's household, the amount of
11 property taxes accrued is prorated to be the same
12 percentage as the percentage of ownership held by the
13 beneficiary in the residence in that year;

14 (2) If a beneficiary occupied more than one residence
15 during a claim year, the amount of property taxes
16 accrued on each residence is prorated by one-half for
17 each month each residence is owned and occupied in
18 that year, but a beneficiary may not claim more than
19 one residence in any single month;

20 (3) If a beneficiary occupied a unit in a multifamily,
21 multidwelling, or multipurpose building as the
22 beneficiary's residence during a claim year, the



1 amount of property taxes accrued is prorated to be the
2 same percentage as the percentage representing the
3 beneficiary's unit's value compared to the total
4 building value in that year; or

5 (4) If a beneficiary occupied a unit in a multifamily,
6 multidwelling, or multipurpose building that is owned
7 and operated as a cooperative as the beneficiary's
8 residence during a claim year, the amount of property
9 taxes accrued is prorated to be the value of the
10 interest held by the owner of record of the legal or
11 equitable interest that confers an occupancy right
12 other than a leasehold in the cooperative in that
13 year.

14 (e) The department shall pay a claimant \$1 if the amount
15 of a property tax grant is determined to be less than \$1.

16 (f) The department shall disburse payment of a property
17 tax grant in the name of the claimant. However, if the claimant
18 is no longer living at the time of disbursement, the department
19 shall disburse payment of a property tax grant in the name of
20 any surviving spouse who lived with the claimant at the time the
21 claim was filed. If there is no qualified surviving spouse at
22 the time of disbursement, the department shall disburse payment



1 of a property tax grant in equal parts to any surviving
2 dependent minor children under age eighteen who lived with the
3 claimant at the time the claim was filed. If there are no
4 qualified survivors of the claimant living at the time of
5 disbursement, the claim for a property tax grant escheats to the
6 State.

7 (g) The department may authorize the reissuance of a
8 warrant for the payment of a property tax grant that was
9 canceled for redeposit if the claimant or the claimant's
10 qualified survivors make a request within three years following
11 the claim year in question.

12 § -8 Penalties. (a) Any person who:

- 13 (1) Files a fraudulent claim for a grant under this
14 chapter;
- 15 (2) For compensation prepares a claim for this program and
16 knowingly enters false information on the claim for a
17 claimant or a beneficiary;
- 18 (3) Fraudulently files multiple claims; or
- 19 (4) Fraudulently states that a nondisabled person is
20 disabled;

21 is guilty of a class C felony.



1 (b) Evidence of fraud includes, but is not limited to,
 2 false information in a claim and proof that a claimant or
 3 beneficiary has acquired title to a residence for the purpose of
 4 receiving a grant.

5 (c) The department shall use balance due notices or
 6 offsets against future grants to recover from any person any
 7 amount paid under this program on account of an erroneous or
 8 fraudulent claim, together with per cent interest per
 9 year.

10 (d) A prosecution for the violation of this chapter may be
 11 undertaken at any time within three years after the commission
 12 of that violation."

13 SECTION 2. This Act shall take effect upon its approval.

14

INTRODUCED BY:

Cindy Evans
Jyla B. Berg
[Signature]
 JAN 25 2006

HB 2862

Report Title:

Property Tax; Senior Citizen; Disabled Person

Description:

Establishes the Senior Citizens and Disabled Persons Property Tax Relief Act to assist low-income senior citizens and disabled persons with the burden of high property taxes. Provides for state to make grants to persons for whom real property taxes exceed specified percentages of their income.

