

**PROPERTY TAX - FARMLAND ASSESSMENT ACT AMENDMENTS**

2000 GENERAL SESSION

STATE OF UTAH

**Sponsor: Pete Suazo**

AN ACT RELATING TO REVENUE AND TAXATION; AMENDING THE QUALIFICATIONS FOR ASSESSMENT AS AGRICULTURAL LAND; AMENDING THE REQUIREMENTS FOR ACQUISITION OF PROPERTY BY A GOVERNMENTAL ENTITY; AND MAKING TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**59-2-503**, as last amended by Chapter 235, Laws of Utah 1992

**59-2-511**, as last amended by Chapter 359, Laws of Utah 1999

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **59-2-503** is amended to read:

**59-2-503. Qualifications for agricultural use valuation.**

(1) For general property tax purposes, land may be assessed based on the value which the land has for agricultural use if the land:

(a) is not less than five contiguous acres in area, except where devoted to agricultural use in conjunction with other eligible acreage or as provided under Subsection (4);

(b) is actively devoted to agricultural use; and

(c) has been actively devoted to agricultural use for at least two successive years immediately preceding the tax year in issue.

(2) (a) For the purpose of Subsection (1), "actively devoted to agricultural use" means that the land produces in excess of 50% of the average agricultural production per acre for the given type of land and the given county or area.

(b) For the purpose of determining production levels for a given county or area and a given type of land the first applicable of the following established authorities shall be used:

(i) production levels reported in the current publication of the Utah Agricultural Statistics;

(ii) current crop budgets developed and published by Utah State University; and

(iii) other acceptable standards of agricultural production designated by the commission by rule adopted in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(3) Land may also be assessed based on its agricultural value if the land is:

- (a) subject to the privilege tax imposed by Section 59-4-101;
- (b) owned by the state or any of its political subdivisions; and
- (c) meets the requirements of Subsection (1).

(4) The commission may grant a waiver of the acreage limitation upon appeal by the owner and submission of proof that:

(a) 80% or more of the owner's, purchaser's, or lessee's income is derived from agricultural products produced on the property in question[-]; or

(b) (i) the failure to meet the acreage requirement arose solely as a result of an acquisition by a governmental entity by eminent domain or the threat or imminence of an eminent domain proceeding;

(ii) the land is actively devoted to agricultural use as defined in Subsection (2); and

(iii) no change occurs in the ownership of the land.

(5) The commission may grant a waiver of the agricultural production requirements for the tax year in issue upon appeal by the owner and submission of proof that:

(a) the land was valued on the basis of agricultural use for at least two years immediately preceding that tax year; and

(b) the failure to meet the agricultural production requirements for that tax year was due to no fault or act of the owner, purchaser, or lessee.

(6) As used in Subsection (5)(b), "fault" does not include any of the following:

(a) intentional planting of crops or trees which, because of the maturation period do not give the owner, purchaser, or lessee a reasonable opportunity to satisfy the production level requirement; or

(b) implementation of a bona-fide range improvement program, crop rotation program, or other similar accepted cultural practices which do not give the owner, purchaser, or lessee a reasonable opportunity to satisfy the production level requirement.

Section 2. Section **59-2-511** is amended to read:

**59-2-511. Acquisition of property by governmental entity -- Requirements.**

(1) For purposes of this section, "governmental entity" means:

- (a) the United States;
- (b) the state;
- (c) a political subdivision of the state, including:
  - (i) a county;
  - (ii) a city;
  - (iii) a town;
  - (iv) a school district; or
  - (v) a special district; or
- (d) an entity created by the state or the United States, including:
  - (i) an agency;
  - (ii) a board;
  - (iii) a bureau;
  - (iv) a commission;
  - (v) a committee;
  - (vi) a department;
  - (vii) a division;
  - (viii) an institution;
  - (ix) an instrumentality; or
  - (x) an office.

(2) (a) Except as provided in Subsections (3) and (4), property acquired by a governmental entity is subject to the rollback tax imposed by this part if:

- (i) prior to the governmental entity acquiring the property, the property is:
  - (A) valued under this part;
  - (B) assessed under this part; and
  - (C) taxed under this part; and

(ii) after the governmental entity acquires the property, the property is not actively devoted to agricultural use.

(b) If property is subject to the rollback tax under Subsection (2)(a):

(i) the owner of record shall pay the rollback tax imposed by this part before title may pass; and

(ii) prior to the governmental entity acquiring the property, the governmental entity shall:

(A) provide notice of the sale to the county assessor of the county in which the property is located; and

(B) receive a clearance from the county assessor of the county in which the property is located stating that:

(I) rollback taxes have been paid; or

(II) the property is not subject to rollback taxes imposed by this part.

(c) A person dedicating a public right-of-way to a governmental entity shall pay the rollback tax imposed by this part if:

(i) a portion of the public right-of-way is located within a subdivision as defined in Section 10-9-103; or

(ii) in exchange for the dedication, the person dedicating the public right-of-way receives:

(A) money; or

(B) other consideration.

(3) (a) Except as provided in Subsection (4), property acquired by a governmental entity is not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee payment as provided in Subsection (3)(b), if:

(i) the governmental entity acquires the property by eminent domain;

(ii) (A) the property is under the threat or imminence of eminent domain proceedings; and

(B) the governmental entity provides written notice of the proceedings to the owner of record; or

(iii) the property is donated to the governmental entity.

(b) (i) If a governmental entity acquires property under Subsection (3)(a)(iii), the

governmental entity shall make a one-time in lieu fee payment:

- (A) to the county assessor of the county in which the property is located; and
  - (B) in an amount equal to the amount of rollback tax calculated under Section 59-2-506.
- (ii) If a governmental entity acquires property under Subsection (3)(a)(i) or (3)(a)(ii), the

governmental entity shall make a one-time in lieu fee payment:

- (A) to the county assessor of the county in which the property is located; and
- (B) (I) if the land remaining after the acquisition is five acres or more when used in conjunction with other qualifying acreage, then in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity; or
- (II) if the land remaining after the acquisition is less than five acres when used in conjunction with other qualifying acreage, then in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity and the remaining, nonqualifying land.

~~[(ii)]~~ (c) A county receiving an in lieu fee payment under Subsection (3)(b)~~[(i)]~~ shall distribute the revenues generated by the payment:

- ~~[(A)]~~ (i) to the taxing entities in which the property is located; and
- ~~[(B)]~~ (ii) in the same proportion as the revenue from real property taxes is distributed.

(4) Except as provided in Section 59-2-506, if a governmental entity acquires property and converts the property into a conservation easement under Section 59-2-506:

- (a) the property is not subject to the rollback tax imposed by this part; and
- (b) the governmental entity acquiring the property is not required to make an in lieu fee payment under Subsection (3)(b).