

1 **RESIDENTIAL EXEMPTION - SECONDARY**

2 **RESIDENCES**

3 2000 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Ed P. Mayne**

6 AN ACT RELATING TO THE PROPERTY TAX ACT; AMENDING THE DEFINITION OF
7 RESIDENTIAL PROPERTY TO INCLUDE SECONDARY RESIDENCES; DEFINING TERMS;
8 PROVIDING PROCEDURES FOR A PROPERTY OWNER TO CLAIM A RESIDENTIAL
9 EXEMPTION FOR A SECONDARY RESIDENCE; AND MAKING TECHNICAL CHANGES.

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

11 AMENDS:

12 **59-2-102**, as last amended by Chapter 134, Laws of Utah 1999

13 **59-2-103**, as last amended by Chapter 275, Laws of Utah 1995

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

15 Section 1. Section **59-2-102** is amended to read:

16 **59-2-102. Definitions.**

17 As used in this chapter and title:

18 (1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of
19 engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness
20 certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for
21 agricultural and pest control purposes.

22 (2) "Air charter service" means an air carrier operation which requires the customer to hire
23 an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

24 (3) "Air contract service" means an air carrier operation available only to customers who
25 engage the services of the carrier through a contractual agreement and excess capacity on any trip
26 and is not available to the public at large.

27 (4) "Aircraft" is as defined in Section 72-10-102.

28 (5) "Airline" means any air carrier operating interstate routes on a scheduled basis which
29 offers to fly passengers or cargo on the basis of available capacity on regularly scheduled routes.

30 (6) "Assessment roll" means a permanent record of the assessment of property as assessed
31 by the county assessor and the commission and may be maintained manually or as a computerized
32 file as a consolidated record or as multiple records by type, classification, or categories.

33 (7) "Certified revenue levy" means a property tax levy that provides the same amount of
34 ad valorem property tax revenue as was collected for the prior year, plus new growth, but exclusive
35 of revenue from collections from redemptions, interest, and penalties.

36 (8) "County-assessed commercial vehicle" means:

37 (a) any commercial vehicle, trailer, or semitrailer which is not apportioned under Section
38 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in
39 furtherance of the owner's commercial enterprise;

40 (b) any passenger vehicle owned by a business and used by its employees for
41 transportation as a company car or vanpool vehicle; and

42 (c) vehicles which are:

43 (i) especially constructed for towing or wrecking, and which are not otherwise used to
44 transport goods, merchandise, or people for compensation;

45 (ii) used or licensed as taxicabs or limousines;

46 (iii) used as rental passenger cars, travel trailers, or motor homes;

47 (iv) used or licensed in this state for use as ambulances or hearses;

48 (v) especially designed and used for garbage and rubbish collection; or

49 (vi) used exclusively to transport students or their instructors to or from any private,
50 public, or religious school or school activities.

51 (9) (a) Except as provided in Subsection (9)(b), for purposes of Section 59-2-801,
52 "designated tax area" means a tax area created by the overlapping boundaries of only the following
53 taxing entities:

54 (i) a county; and

55 (ii) a school district.

56 (b) Notwithstanding Subsection (9)(a), "designated tax area" includes a tax area created
57 by the overlapping boundaries of:

58 (i) the taxing entities described in Subsection (9)(a); and

59 (ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a) and
60 the boundaries of the city or town are identical; or

61 (B) a special service district if the boundaries of the school district under Subsection (9)(a)
62 are located entirely within the special service district.

63 (10) (a) "Escaped property" means any property, whether personal, land, or any
64 improvements to the property, subject to taxation and is:

65 (i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed
66 to the wrong taxpayer by the assessing authority;

67 (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to
68 comply with the reporting requirements of this chapter; or

69 (iii) undervalued because of errors made by the assessing authority based upon incomplete
70 or erroneous information furnished by the taxpayer.

71 (b) Property which is undervalued because of the use of a different valuation methodology
72 or because of a different application of the same valuation methodology is not "escaped property."

73 (11) "Fair market value" means the amount at which property would change hands
74 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and
75 both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair market
76 value" shall be determined using the current zoning laws applicable to the property in question,
77 except in cases where there is a reasonable probability of a change in the zoning laws affecting that
78 property in the tax year in question and the change would have an appreciable influence upon the
79 value.

80 (12) "Farm machinery and equipment," for purposes of the exemption provided under
81 Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed
82 handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage
83 tools, scales, combines, spreaders, sprayers, haying equipment, and any other machinery or
84 equipment used primarily for agricultural purposes; but does not include vehicles required to be
85 registered with the Motor Vehicle Division or vehicles or other equipment used for business
86 purposes other than farming.

87 (13) "Geothermal fluid" means water in any form at temperatures greater than 120 degrees
88 centigrade naturally present in a geothermal system.

89 (14) "Geothermal resource" means:

90 (a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and
91 (b) the energy, in whatever form, including pressure, present in, resulting from, created by,
92 or which may be extracted from that natural heat, directly or through a material medium.

93 (15) "Improvements" includes all buildings, structures, fixtures, fences, and improvements
94 erected upon or affixed to the land, whether the title has been acquired to the land or not.

95 (16) "Intangible property":

96 (a) means property that is capable of private ownership separate from tangible property;

97 and

98 (b) includes:

99 (i) moneys;

100 (ii) credits;

101 (iii) bonds;

102 (iv) stocks;

103 (v) representative property;

104 (vi) franchises;

105 (vii) licenses;

106 (viii) trade names;

107 (ix) copyrights; and

108 (x) patents.

109 (17) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

110 (18) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable
111 mineral.

112 (19) "Mining" means the process of producing, extracting, leaching, evaporating, or
113 otherwise removing a mineral from a mine.

114 (20) (a) "Mobile flight equipment" means tangible personal property that is:

115 (i) owned or operated by an:

116 (A) air charter service;

117 (B) air contract service; or

118 (C) airline; and

119 (ii) (A) capable of flight;

120 (B) attached to an aircraft that is capable of flight; or

121 (C) contained in an aircraft that is capable of flight if the tangible personal property is
 122 intended to be used:

123 (I) during multiple flights;

124 (II) during a takeoff, flight, or landing; and

125 (III) as a service provided by an air charter service, air contract service, or airline.

126 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine
 127 that is rotated:

128 (A) at regular intervals; and

129 (B) with an engine that is attached to the aircraft.

130 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
 131 commission may make rules defining the term "regular intervals."

132 (21) "Nonmetalliferous minerals" includes~~[-but is not limited to,]~~ oil, gas, coal, salts, sand,
 133 rock, gravel, and all carboniferous materials.

134 (22) "Personal property" includes:

135 (a) ~~[every]~~ each class of property as defined in Subsection ~~[(23)]~~ (24) which is the subject
 136 of ownership and not included within the meaning of the terms "real estate" and "improvements";

137 (b) gas and water mains and pipes laid in roads, streets, or alleys;

138 (c) bridges and ferries; and

139 (d) livestock which, for the purposes of the exemption provided under Section 59-2-1112,
 140 means all domestic animals, honeybees, poultry, fur-bearing animals, and fish.

141 (23) (a) "Primary residence" means property used:

142 (i) for residential purposes; and

143 (ii) as a domicile.

144 (b) "Primary residence" does not include:

145 (i) property used as a transient residence; or

146 (ii) a condominium used in a rental pool.

147 ~~[(23)]~~ (24) (a) "Property" means property that is subject to assessment and taxation
 148 according to its value.

149 (b) "Property" does not include intangible property as defined in this section.

150 ~~[(24)]~~ (25) "Public utility," for purposes of this chapter, means the operating property of
 151 a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline

152 company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation
153 where the company performs the service for, or delivers the commodity to, the public generally
154 or companies serving the public generally, or in the case of a gas corporation or an electrical
155 corporation, where the gas or electricity is sold or furnished to any member or consumers within
156 the state for domestic, commercial, or industrial use. Public utility also means the operating
157 property of any entity or person defined under Section 54-2-1 except water corporations.

158 ~~[(25)]~~ (26) "Real estate or property" includes:

- 159 (a) the possession of, claim to, ownership of, or right to the possession of land;
160 (b) all mines, minerals, and quarries in and under the land, all timber belonging to
161 individuals or corporations growing or being on the lands of this state or the United States, and all
162 rights and privileges appertaining to these; and
163 (c) improvements.

164 ~~[(26)]~~ (27) "Residential property," for the purposes of the reductions and adjustments
165 under this chapter, means ~~[any property used for residential purposes as]~~ a:

166 (a) primary residence~~[. It does not include property used for transient residential use or~~
167 ~~condominiums used in rental pools];~~ or

168 (b) secondary residence.

169 ~~[(27)]~~ (28) For purposes of Subsection 59-2-801(1)(e), "route miles" means the number
170 of miles calculated by the commission that is:

- 171 (a) measured in a straight line by the commission; and
172 (b) equal to the distance between a geographical location that begins or ends:
173 (i) at a boundary of the state; and
174 (ii) where an aircraft:
175 (A) takes off; or
176 (B) lands.

177 (29) (a) "Secondary residence" means property that:

178 (i) is used for residential purposes; and

179 (ii) is not a primary residence.

180 (b) "Secondary residence" does not include:

181 (i) a condominium used in a rental pool; or

182 (ii) property:

183 (A) owned by a for-profit business entity; or

184 (B) owned by more than two persons, unless the persons are related as described in Section
 185 267(c)(4), Internal Revenue Code.

186 ~~[(28)]~~ (30) (a) "State-assessed commercial vehicle" means:

187 (i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate to
 188 transport passengers, freight, merchandise, or other property for hire; or

189 (ii) any commercial vehicle, trailer, or semitrailer which operates interstate and transports
 190 the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

191 (b) "State-assessed commercial vehicle" does not include vehicles used for hire which are
 192 specified in Subsection (8)(c) as county-assessed commercial vehicles.

193 ~~[(29)]~~ (31) "Taxable value" means fair market value less any applicable reduction allowed
 194 for residential property under Section 59-2-103.

195 ~~[(30)]~~ (32) "Tax area" means a geographic area created by the overlapping boundaries of
 196 one or more taxing entities.

197 ~~[(31)]~~ (33) "Taxing entity" means any county, city, town, school district, special taxing
 198 district, or any other political subdivision of the state with the authority to levy a tax on property.

199 ~~[(32)]~~ (34) "Tax roll" means a permanent record of the taxes charged on property, as
 200 extended on the assessment roll and may be maintained on the same record or records as the
 201 assessment roll or may be maintained on a separate record properly indexed to the assessment roll.
 202 It includes tax books, tax lists, and other similar materials.

203 Section 2. Section **59-2-103** is amended to read:

204 **59-2-103. Rate of assessment of property -- Residential property.**

205 (1) All tangible taxable property shall be assessed and taxed at a uniform and equal rate
 206 on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.

207 (2) ~~[Beginning January 1, 1995, the]~~ The fair market value of residential property ~~[shall~~
 208 ~~be reduced by 45%, representing a residential exemption allowed under Utah Constitution Article~~
 209 ~~XIII, Section 2, Utah Constitution.]~~ is subject to the following residential exemptions:

210 (a) beginning on January 1, 1995, 45% of the fair market value of a primary residence is
 211 exempt; and

212 (b) beginning on January 1, 2001, 25% of the first \$150,000 of the fair market value of a
 213 secondary residence is exempt as provided in Subsection (4).

214 (3) No more than one acre of land per residential unit may qualify for [the] a residential
215 exemption.

216 (4) An owner of a secondary residence claiming a residential exemption for the secondary
217 residence under Subsection (2)(b) shall file a signed statement with the county assessor:

218 (a) (i) subject to Subsection (5), in any year before the year in which the owner claims the
219 residential exemption for the secondary residence; or

220 (ii) (A) subject to Subsection (5), in the year in which the owner claims a residential
221 exemption for the secondary residence; and

222 (B) on or before the deadline for filing appeals under Section 59-2-1004; and

223 (b) certifying that:

224 (i) the property is a secondary residence;

225 (ii) the owner does not have a signed statement on file with any county assessor in the state
226 certifying that another property in the state is a secondary residence;

227 (iii) the owner shall not rent the property during a calendar year in which the owner is
228 claiming the residential exemption for the secondary residence; and

229 (iv) the owner shall notify the county assessor in writing within 30 days after the day on
230 which:

231 (A) there is a change of ownership of the property; or

232 (B) the property does not meet the definition of secondary residence under Section
233 59-2-102.

234 (5) If an owner files a signed statement meeting the requirements of Subsection (4) for a
235 secondary residence that qualifies for a residential exemption under this part, for the time period
236 during which the secondary residence qualifies for the residential exemption:

237 (a) the signed statement is valid; and

238 (b) the owner is not required to file another signed statement under Subsection (4).

Legislative Review Note

as of 2-1-00 3:27 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel