

PROPERTY TAX AMENDMENTS

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Wayne A. Harper

This act amends the Property Tax Act to address when applications, statements, or other filings are required for an exemption from taxation or a reduction in value. This act makes technical changes. The act takes effect on January 1, 2003, and provides for retrospective operation under certain circumstances.

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

AMENDS:

59-2-1101, as last amended by Chapters 221 and 310, Laws of Utah 2001

59-2-1102, as last amended by Chapter 86, Laws of Utah 2000

ENACTS:

59-2-103.5, Utah Code Annotated 1953

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

Section 1. Section **59-2-103.5** is enacted to read:

59-2-103.5. Procedures to obtain an exemption for residential property.

(1) Subject to the other provisions of this section, a county legislative body may by ordinance require that in order for residential property to be allowed a residential exemption in accordance with Section 59-2-103, an owner of the residential property shall file with the county board of equalization a statement:

- (a) on a form prescribed by the commission by rule;
- (b) signed by all of the owners of the residential property;
- (c) certifying that the residential property is residential property; and
- (d) containing other information as required by the commission by rule.

(2) (a) Subject to Section 59-2-103 and except as provided in Subsection (3), a county board of equalization shall allow an owner described in Subsection (1) a residential exemption for the residential property described in Subsection (1) if:

- (i) the county legislative body enacts the ordinance described in Subsection (1); and

(ii) the county board of equalization determines that the requirements of Subsection (1) are met.

(b) A county board of equalization may require an owner of the residential property described in Subsection (1) to file the statement described in Subsection (1) only if:

(i) that residential property was ineligible for the residential exemption authorized under Section 59-2-103 during the calendar year immediately preceding the calendar year for which the owner is seeking to claim the residential exemption for that residential property;

(ii) an ownership interest in that residential property changes; or

(iii) the county board of equalization determines that there is reason to believe that that residential property no longer qualifies for the residential exemption in accordance with Section 59-2-103.

(3) Notwithstanding Subsection (2)(a), if a county legislative body does not enact an ordinance requiring an owner to file a statement in accordance with this section, the county board of equalization:

(a) may not require an owner to file a statement for residential property to be eligible for a residential exemption in accordance with Section 59-2-103; and

(b) shall allow a residential exemption for residential property in accordance with Section 59-2-103.

(4) (a) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules providing:

(i) the form for the statement described in Subsection (1); and

(ii) the contents of the form for the statement described in Subsection (1).

(b) The commission shall make the form described in Subsection (4)(a) available to counties.

Section 2. Section **59-2-1101** is amended to read:

59-2-1101. Exemption of certain property -- Proportional payments for government-owned property -- County legislative body authority to adopt rules or ordinances.

(1) (a) ~~[The]~~ Except as provided in Subsection (1)(b), the exemptions, deferrals, and abatements authorized by this part may be allowed only if the claimant is the owner of the property

as of January 1 of the year the exemption is claimed~~[, unless]~~.

(b) Notwithstanding Subsection (1)(a), if the claimant is a federal, state, or political subdivision entity under Subsection (2)(a), (b), or (c), [in which case] the entity shall collect and pay a proportional tax based upon the length of time that the property was not owned by the entity.

(2) The following property is exempt from taxation:

(a) property exempt under the laws of the United States;

(b) property of the state, school districts, and public libraries;

(c) property of counties, cities, towns, special districts, and all other political subdivisions of the state, except as provided in Title 11, Chapter 13, Interlocal Cooperation Act;

(d) property owned by a nonprofit entity which is used exclusively for religious, charitable, or educational purposes;

(e) places of burial not held or used for private or corporate benefit;

(f) farm equipment and machinery; and

(g) intangible property.

~~[(3)(a) The owner who receives exempt status for property, if required by the commission, shall file a signed statement, on or before March 1 each year, certifying the use to which the property has been placed during the past year. The signed statement shall contain the following information in summary form:]~~

~~[(i) identity of the individual who signed the statement;]~~

~~[(ii) the basis of the signer's knowledge of the use of the property;]~~

~~[(iii) authority to make the signed statement on behalf of the owner;]~~

~~[(iv) county where property is located; and]~~

~~[(v) nature of use of the property.]~~

~~[(b) If the signed statement is not filed within the time limits prescribed by the county, the exempt status may, after notice and hearing, be revoked and the property then placed on the tax rolls.]~~

~~[(4) The]~~ (3) A county legislative body may adopt rules or ordinances to:

(a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided

in this part; and

(b) designate one or more persons to perform the functions given the county under this part.

Section 3. Section **59-2-1102** is amended to read:

**59-2-1102. Determination of exemptions by board of equalization -- Appeal --
Application for exemption -- Annual statement -- Exceptions.**

(1) (a) ~~[The]~~ For property assessed under Part 3, County Assessment, the county board of equalization may, after giving notice in a manner prescribed by rule, determine whether certain property within the county is exempt from taxation.

(b) The decision of the county board of equalization described in Subsection (1)(a) shall:

(i) be in writing; and ~~[shall]~~

(ii) include:

(A) a statement of facts; and

(B) the statutory basis for its decision.

(c) A copy of the decision described in Subsection (1)(a) shall be sent on or before May 15 to the person or organization applying for the exemption.

(2) The county board of equalization shall notify an owner of exempt property ~~[owner]~~ ~~[who]~~ that has previously received an exemption but failed to file ~~[the]~~ an annual statement ~~[as required under Section 59-2-1101]~~ in accordance with Subsection (9)(c) of the [board's] county board of equalization's intent to revoke the exemption on or before April 1.

(3) (a) ~~[No]~~ Except as provided in Subsection (8) and subject to Subsection (9), a reduction may not be made under this part in the value of property and [no] an exemption may not be granted under this part unless the party affected or the party's agent:

(i) makes and files with the county board of equalization a written application for the reduction or exemption, verified by signed statement~~[-];~~ and

(ii) appears before the county board of equalization and shows facts upon which it is claimed the reduction should be made, or exemption granted. ~~[The]~~

(b) Notwithstanding Subsection (9), the county board of equalization may waive:

(i) the application or personal appearance requirements of Subsection (3)(a), (4)(b), or (9)(a);

or

(ii) the annual statement requirements of Subsection (9)(c).

(4) (a) Before the county board of equalization grants any application for exemption or reduction, [it] the county board of equalization may examine on oath the person or agent making the application. [No]

(b) Except as provided in Subsection (3)(b), a reduction may not be made or exemption granted unless the person or the agent making the application attends and answers all questions pertinent to the inquiry.

(5) Upon the hearing of the application the county board of equalization may subpoena any witnesses, and hear and take any evidence in relation to the pending [subject] application.

(6) The county board of equalization shall hold hearings and render a written decision to determine any exemption on or before May 1 in each year.

(7) Any property owner dissatisfied with the decision of the county board of equalization regarding any reduction or exemption may appeal to the commission under Section 59-2-1006.

(8) Notwithstanding Subsection (3)(a), a county board of equalization may not require an owner of property to file an application in accordance with this section in order to claim an exemption for the property under the following:

(a) Subsections 59-2-1101(2)(a) through (c);

(b) Subsection 59-2-1101(2)(f) or (g);

(c) Section 59-2-1110;

(d) Section 59-2-1111;

(e) Section 59-2-1112;

(f) Section 59-2-1113; or

(g) Section 59-2-1114.

(9) (a) Except as provided in Subsections (3)(b) and (9)(b), for property described in Subsection 59-2-1101(2)(d) or (e), a county board of equalization shall require an owner of that property to file an application in accordance with this section in order to claim an exemption for that property.

(b) Notwithstanding Subsection (9)(a), a county board of equalization may not require an owner of property described in Subsection 59-2-1101(2)(d) or (e) to file an application under Subsection (9)(a) if:

(i) (A) the owner filed an application under Subsection (9)(a); or

(B) the county board of equalization waived the application requirements in accordance with Subsection (3)(b);

(ii) the county board of equalization determines that the owner may claim an exemption for that property; and

(iii) the exemption described in Subsection (9)(b)(ii) is in effect.

(c) (i) Except as provided in Subsection (3)(b), for the time period that an owner is granted an exemption in accordance with this section for property described in Subsection 59-2-1101(2)(d) or (e), a county board of equalization shall require the owner to file an annual statement on a form prescribed by the commission establishing that the property continues to be eligible for the exemption.

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules providing:

(A) the form for the annual statement required by Subsection (9)(c)(i);

(B) the contents of the form for the annual statement required by Subsection (9)(c)(i); and

(C) procedures and requirements for making the annual statement required by Subsection (9)(c)(i).

(iii) The commission shall make the form described in Subsection (9)(c)(ii)(A) available to counties.

Section 4. Effective date -- Retrospective operation.

(1) Subject to Subsection (2), this act takes effect on January 1, 2003.

(2) Sections 59-2-103.5 and 59-2-1102 have retrospective operation for an action or appeal for which a court of competent jurisdiction, the State Tax Commission, or a county board of equalization has not issued a final unappealable judgment or order if the retrospective operation of Sections 59-2-103.5 and 59-2-1102 does not enlarge, eliminate, or destroy a vested right.

