

**PROPERTY TAX AMENDMENTS ON  
AGRICULTURAL LAND**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Bradley A. Winn**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions in the Property Tax Act relating to the taxation of agricultural land.

**Highlighted Provisions:**

This bill:

- ▶ amends the requirements for the minimum amount of land needed to qualify for property tax assessment based on agricultural use; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect on January 1, 2009.

**Utah Code Sections Affected:**

AMENDS:

**59-2-502**, as last amended by Laws of Utah 2005, Chapter 254

**59-2-503**, as last amended by Laws of Utah 2003, Chapter 208

**59-2-511**, as last amended by Laws of Utah 2007, Chapter 329

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



28 Section 1. Section **59-2-502** is amended to read:

29 **59-2-502. Definitions.**

30 As used in this part:

31 (1) "Actively devoted to agricultural use" means that the land in agricultural use  
32 produces in excess of 50% of the average agricultural production per acre:

33 (a) as determined under Section 59-2-503; and

34 (b) for:

35 (i) the given type of land; and

36 (ii) the given county or area.

37 (2) "Conservation easement rollback tax" means the tax imposed under Section  
38 59-2-506.5.

39 (3) "Identical legal ownership" means legal ownership held by:

40 (a) identical legal parties; or

41 (b) identical legal entities.

42 (4) "Land in agricultural use" means:

43 (a) land devoted to the raising of useful plants and animals with a reasonable  
44 expectation of profit, including:

45 (i) forages and sod crops;

46 (ii) grains and feed crops;

47 (iii) livestock as defined in Section 59-2-102;

48 (iv) trees and fruits; or

49 (v) vegetables, nursery, floral, and ornamental stock; or

50 (b) land devoted to and meeting the requirements and qualifications for payments or

51 other compensation under a crop-land retirement program with an agency of the state or federal

52 government.

53 (5) "Other eligible acreage" means land that is:

54 (a) [~~five~~] three or more contiguous acres;

55 (b) eligible for assessment under this part; and

56 (c) (i) located in the same county as land described in Subsection 59-2-503(1)(a); or

57 (ii) contiguous across county lines with land described in Subsection 59-2-503(1)(a) as

58 provided in Section 59-2-512.

- 59 (6) "Platted" means land in which:
- 60 (a) parcels of ground are laid out and mapped by their boundaries, course, and extent;
- 61 and
- 62 (b) the plat has been approved as provided in Section 10-9a-604 or 17-27a-604.
- 63 (7) "Rollback tax" means the tax imposed under Section 59-2-506.
- 64 (8) "Withdrawn from this part" means that land that has been assessed under this part is
- 65 no longer assessed under this part or eligible for assessment under this part for any reason
- 66 including that:
- 67 (a) an owner voluntarily requests that the land be withdrawn from this part;
- 68 (b) the land is no longer actively devoted to agricultural use;
- 69 (c) (i) the land has a change in ownership; and
- 70 (ii) (A) the new owner fails to apply for assessment under this part as required by
- 71 Section 59-2-509; or
- 72 (B) (I) an owner applies for assessment under this part as required by Section
- 73 59-2-509; and
- 74 (II) the land does not meet the requirements of this part to be assessed under this part;
- 75 (d) (i) the legal description of the land changes; and
- 76 (ii) (A) an owner fails to apply for assessment under this part as required by Section
- 77 59-2-509; or
- 78 (B) (I) an owner applies for assessment under this part as required by Section
- 79 59-2-509; and
- 80 (II) the land does not meet the requirements of this part to be assessed under this part;
- 81 (e) if required by the county assessor, the owner of the land:
- 82 (i) fails to file a new application as provided in Subsection 59-2-508(4); or
- 83 (ii) fails to file a signed statement as provided in Subsection 59-2-508(4); or
- 84 (f) except as provided in Section 59-2-503, the land fails to meet a requirement of
- 85 Section 59-2-503.

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

87 **59-2-503. Qualifications for agricultural use assessment.**

- 88 (1) For general property tax purposes, land may be assessed on the basis of the value
- 89 that the land has for agricultural use if the land:

90 (a) is not less than [~~five~~] three contiguous acres in area, except that land may be  
91 assessed on the basis of the value that the land has for agricultural use:

92 (i) if:

93 (A) the land is devoted to agricultural use in conjunction with other eligible acreage;  
94 and

95 (B) the land and the other eligible acreage described in Subsection (1)(a)(i)(A) have  
96 identical legal ownership; or

97 (ii) as provided under Subsection (4); and

98 (b) except as provided in Subsection (5):

99 (i) is actively devoted to agricultural use; and

100 (ii) has been actively devoted to agricultural use for at least two successive years  
101 immediately preceding the tax year for which the land is being assessed under this part.

102 (2) In determining whether land is actively devoted to agricultural use, production per  
103 acre for a given county or area and a given type of land shall be determined by using the first  
104 applicable of the following:

105 (a) production levels reported in the current publication of the Utah Agricultural  
106 Statistics;

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

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

111 (3) Land may be assessed on the basis of the land's agricultural value if the land:

112 (a) is subject to the privilege tax imposed by Section 59-4-101;

113 (b) is owned by the state or any of the state's political subdivisions; and

114 (c) meets the requirements of Subsection (1).

115 (4) Notwithstanding Subsection (1)(a), the commission or a county board of  
116 equalization may grant a waiver of the acreage limitation for land upon:

117 (a) appeal by the owner; and

118 (b) submission of proof that:

119 (i) 80% or more of the owner's, purchaser's, or lessee's income is derived from  
120 agricultural products produced on the property in question; or

121 (ii) (A) the failure to meet the acreage requirement arose solely as a result of an  
122 acquisition by a governmental entity by:

123 (I) eminent domain; or

124 (II) the threat or imminence of an eminent domain proceeding;

125 (B) the land is actively devoted to agricultural use; and

126 (C) no change occurs in the ownership of the land.

127 (5) (a) Notwithstanding Subsection (1)(b), the commission or a county board of  
128 equalization may grant a waiver of the requirement that the land is actively devoted to  
129 agricultural use for the tax year for which the land is being assessed under this part upon:

130 (i) appeal by the owner; and

131 (ii) submission of proof that:

132 (A) the land was assessed on the basis of agricultural use for at least two years  
133 immediately preceding that tax year; and

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

136 (b) As used in Subsection (5)(a), "fault" does not include:

137 (i) intentional planting of crops or trees which, because of the maturation period, do  
138 not give the owner, purchaser, or lessee a reasonable opportunity to satisfy the production  
139 levels required for land actively devoted to agricultural use; or

140 (ii) implementation of a bona fide range improvement program, crop rotation program,  
141 or other similar accepted cultural practices which do not give the owner, purchaser, or lessee a  
142 reasonable opportunity to satisfy the production levels required for land actively devoted to  
143 agricultural use.

144 Section 3. Section **59-2-511** is amended to read:

145 **59-2-511. Acquisition of land by governmental entity -- Requirements -- Rollback**  
146 **tax -- One-time in lieu fee payment -- Passage of title.**

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

148 (a) the United States;

149 (b) the state;

150 (c) a political subdivision of the state, including:

151 (i) a county;

- 152 (ii) a city;
- 153 (iii) a town;
- 154 (iv) a school district;
- 155 (v) a local district; or
- 156 (vi) a special service district; or
- 157 (d) an entity created by the state or the United States, including:
  - 158 (i) an agency;
  - 159 (ii) a board;
  - 160 (iii) a bureau;
  - 161 (iv) a commission;
  - 162 (v) a committee;
  - 163 (vi) a department;
  - 164 (vii) a division;
  - 165 (viii) an institution;
  - 166 (ix) an instrumentality; or
  - 167 (x) an office.
- 168 (2) (a) Except as provided in Subsections (3) and (4), land acquired by a governmental
- 169 entity is subject to the rollback tax imposed by this part if:
  - 170 (i) prior to the governmental entity acquiring the land, the land is assessed under this
  - 171 part; and
  - 172 (ii) after the governmental entity acquires the land, the land does not meet the
  - 173 requirements of Section 59-2-503 for assessment under this part.
- 174 (b) A person dedicating a public right-of-way to a governmental entity shall pay the
- 175 rollback tax imposed by this part if:
  - 176 (i) a portion of the public right-of-way is located within a subdivision as defined in
  - 177 Section 10-9a-103; or
  - 178 (ii) in exchange for the dedication, the person dedicating the public right-of-way
  - 179 receives:
    - 180 (A) money; or
    - 181 (B) other consideration.
- 182 (3) (a) Except as provided in Subsection (4), land acquired by a governmental entity is

183 not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee  
184 payment as provided in Subsection (3)(b), if:

- 185 (i) the governmental entity acquires the land by eminent domain;
- 186 (ii) (A) the land is under the threat or imminence of eminent domain proceedings; and
- 187 (B) the governmental entity provides written notice of the proceedings to the owner; or
- 188 (iii) the land is donated to the governmental entity.

189 (b) (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the  
190 governmental entity shall make a one-time in lieu fee payment:

- 191 (A) to the county treasurer of the county in which the land is located; and
- 192 (B) in an amount equal to the amount of rollback tax calculated under Section  
193 59-2-506.

194 (ii) If a governmental entity acquires land under Subsection (3)(a)(i) or (3)(a)(ii), the  
195 governmental entity shall make a one-time in lieu fee payment:

- 196 (A) to the county treasurer of the county in which the land is located; and
- 197 (B) (I) if the land remaining after the acquisition by the governmental entity meets the  
198 requirements of Section 59-2-503, in an amount equal to the rollback tax under Section  
199 59-2-506 on the land acquired by the governmental entity; or
- 200 (II) if the land remaining after the acquisition by the governmental entity is less than  
201 [~~five~~] three acres, in an amount equal to the rollback tax under Section 59-2-506 on the land  
202 acquired by the governmental entity and the land remaining after the acquisition by the  
203 governmental entity.

204 (iii) For purposes of Subsection (3)(b)(ii), "land remaining after the acquisition by the  
205 governmental entity" includes other eligible acreage that is used in conjunction with the land  
206 remaining after the acquisition by the governmental entity.

207 (c) A county receiving an in lieu fee payment under Subsection (3)(b) shall distribute  
208 the revenues generated by the payment:

- 209 (i) to the taxing entities in which the land is located; and
- 210 (ii) in the same proportion as the revenue from real property taxes is distributed.
- 211 (4) Except as provided in Section 59-2-506.5, if land acquired by a governmental entity  
212 is made subject to a conservation easement in accordance with Section 59-2-506.5:
- 213 (a) the land is not subject to the rollback tax imposed by this part; and

214 (b) the governmental entity acquiring the land is not required to make an in lieu fee  
215 payment under Subsection (3)(b).

216 (5) If a governmental entity acquires land subject to assessment under this part, title to  
217 the land may not pass to the governmental entity until the following are paid to the county  
218 treasurer:

219 (a) any tax due under this part;

220 (b) any one-time in lieu fee payment due under this part; and

221 (c) any interest due under this part.

222 Section 4. **Effective date.**

223 This bill takes effect on January 1, 2009.

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**Legislative Review Note**  
**as of 2-14-08 6:47 AM**

**Office of Legislative Research and General Counsel**