

ARMED FORCES PROPERTY TAX EXEMPTION

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Luz Robles

House Sponsor: Stephen E. Sandstrom

LONG TITLE

General Description:

This bill expands a property tax exemption related to military members.

Highlighted Provisions:

This bill:

- ▶ defines terms and modifies definitions;
 - ▶ expands a property tax exemption related to military members to include certain members of the armed forces who performed qualifying active duty military service;
- and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a contingent effective date of January 1, 2013.

Utah Code Sections Affected:

AMENDS:

59-2-1104, as last amended by Laws of Utah 2011, Chapter 366

59-2-1105, as last amended by Laws of Utah 2011, Chapter 366

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

Section 1. Section **59-2-1104** is amended to read:

59-2-1104. Definitions -- Armed Forces exemption -- Amount of Armed Forces exemption.

30 (1) As used in this section and Section 59-2-1105:

31 (a) "Active component of the United States Armed Forces" is as defined in Section
32 59-10-1027.

33 [~~(a)~~] (b) "Adjusted taxable value limit" means:

34 (i) for the year 2005, \$200,000; and

35 (ii) for each year after 2005, the amount of the adjusted taxable value limit for the
36 previous year, plus an amount calculated by multiplying the amount of the adjusted taxable
37 value limit for the previous year by the actual percent change in the Consumer Price Index
38 during the previous calendar year.

39 [~~(b)~~] (c) "Claimant" means:

40 (i) a veteran with a disability who files an application under Section 59-2-1105 for a
41 veteran's exemption;

42 (ii) the unmarried surviving spouse:

43 (A) of a:

44 (I) deceased veteran with a disability; or

45 (II) veteran who was killed in action or died in the line of duty; and

46 (B) who files an application under Section 59-2-1105 for a veteran's exemption; [~~or~~]

47 (iii) a minor orphan:

48 (A) of a:

49 (I) deceased veteran with a disability; or

50 (II) veteran who was killed in action or died in the line of duty; and

51 (B) who files an application under Section 59-2-1105 for a veteran's exemption[~~;~~]; or

52 (iv) a member of an active component of the United States Armed Forces or a reserve
53 component of the United States Armed Forces who performed qualifying active duty military
54 service.

55 [~~(c)~~] (d) "Consumer price index" is as described in Section 1(f)(4), Internal Revenue
56 Code, and defined in Section 1(f)(5), Internal Revenue Code.

57 [~~(d)~~] (e) "Deceased veteran with a disability" means a deceased person who was a

58 veteran with a disability at the time the person died.

59 ~~[(e)]~~ (f) "Military entity" means:

60 (i) the federal Department of Veterans Affairs; ~~[or]~~

61 ~~[(ii) a component of the armed forces of:]~~

62 ~~[(A) the United States; or]~~

63 ~~[(B) the state.]~~

64 (ii) an active component of the United States Armed Forces; or

65 (iii) a reserve component of the United States Armed Forces.

66 (g) "Qualifying active duty military service" means:

67 (i) at least 200 days in a calendar year, regardless of whether consecutive, of active
68 duty military service outside the state in an active component of the United States Armed
69 Forces or a reserve component of the United States Armed Forces; or

70 (ii) the completion of at least 200 consecutive days of active duty military service
71 outside the state:

72 (A) in an active component of the United States Armed Forces or a reserve component
73 of the United States Armed Forces; and

74 (B) that began in the prior year, if those days of active duty military service outside the
75 state in the prior year were not counted as qualifying active duty military service for purposes
76 of this section or Section 59-2-1105 in the prior year.

77 (h) "Reserve component of the United States Armed Forces" is as defined in Section
78 59-10-1027.

79 ~~[(f)]~~ (i) "Residence" is as defined in Section 59-2-1202, except that a rented dwelling is
80 not considered to be a residence.

81 ~~[(g)]~~ (j) "Veteran who was killed in action or died in the line of duty" means a person
82 who was killed in action or died in the line of duty in ~~[the military service of the United States~~
83 ~~or the state]~~ an active component of the United States Armed Forces or a reserve component of
84 the United States Armed Forces, regardless of whether that person had a disability at the time
85 that person was killed in action or died in the line of duty.

86 ~~[(h)]~~ (k) "Veteran with a disability" means a person with a disability who, during
87 military training or a military conflict, acquired a disability in the line of duty in ~~[the military~~
88 ~~service of the United States or the state]~~ an active component of the United States Armed
89 Forces or a reserve component of the United States Armed Forces.

90 ~~[(i)]~~ (l) "Veteran's exemption" means a property tax exemption provided for in
91 Subsection (2).

92 (2) (a) The amount of taxable value of the property described in Subsection (2)(b) is
93 exempt from taxation as calculated under Subsections (2)(c) through (e) if the property
94 described in Subsection (2)(b) is owned by:

- 95 (i) a veteran with a disability; ~~[or]~~
- 96 (ii) the unmarried surviving spouse or a minor orphan of a:
 - 97 (A) deceased veteran with a disability; or
 - 98 (B) veteran who was killed in action or died in the line of duty~~[-]; or~~
- 99 (iii) a member of an active component of the United States Armed Forces or a reserve
100 component of the United States Armed Forces who performed qualifying active duty military
101 service.

102 (b) Subsection (2)(a) applies to the following property:

- 103 (i) the claimant's primary residence;
- 104 (ii) for a claimant described in Subsection (2)(a)(i) or (ii), tangible personal property
105 that:
 - 106 (A) is held exclusively for personal use; and
 - 107 (B) is not used in a trade or business; or
- 108 (iii) for a claimant described in Subsection (2)(a)(i) or (ii), a combination of
109 Subsections (2)(b)(i) and (ii).

110 (c) Except as provided in Subsection (2)(d) or (e), the amount of taxable value of
111 property described in Subsection (2)(b) that is exempt under Subsection (2)(a) is:

- 112 (i) as described in Subsection (2)(f), if the property is owned by:
 - 113 (A) a veteran with a disability;

114 (B) the unmarried surviving spouse of a deceased veteran with a disability; or
115 (C) a minor orphan of a deceased veteran with a disability; or
116 (ii) equal to the total taxable value of the claimant's property described in Subsection
117 (2)(b) if the property is owned by:
118 (A) the unmarried surviving spouse of a veteran who was killed in action or died in the
119 line of duty; ~~or~~
120 (B) a minor orphan of a veteran who was killed in action or died in the line of duty~~[-]~~;
121 or
122 (C) a member of an active component of the United States Armed Forces or a reserve
123 component of the United States Armed Forces who performed qualifying active duty military
124 service.
125 (d) (i) Notwithstanding Subsection (2)(c)(i) and subject to Subsection (2)(d)(ii), a
126 veteran's exemption except for a claimant described in Subsection (2)(a)(iii) may not be
127 allowed under this Subsection (2) if the percentage of disability listed on the certificate
128 described in Subsection 59-2-1105(3)(a) is less than 10%.
129 (ii) A veteran with a disability is considered to have a 100% disability, regardless of
130 the percentage of disability listed on a certificate described in Subsection 59-2-1105(3)(a), if
131 the United States Department of Veterans Affairs certifies the veteran in the classification of
132 individual unemployability.
133 (e) Notwithstanding Subsection (2)(c)(i), a claimant who is the unmarried surviving
134 spouse or minor orphan of a deceased veteran with a disability may claim ~~[a veteran's]~~ an
135 exemption for the total value of the property described in Subsection (2)(b) if:
136 (i) the deceased veteran with a disability served in the military service of the United
137 States or the state prior to January 1, 1921; and
138 (ii) the percentage of disability listed on the certificate described in Subsection
139 59-2-1105(3)(a) for the deceased veteran with a disability is 10% or more.
140 (f) Except as provided in Subsection (2)(g), the amount of the taxable value of the
141 property described in Subsection (2)(b) that is exempt under Subsection (2)(c)(i) is equal to the

142 percentage of disability listed on the certificate described in Subsection 59-2-1105(3)(a)
 143 multiplied by the adjusted taxable value limit.

144 (g) Notwithstanding Subsection (2)(f), the amount of the taxable value of the property
 145 described in Subsection (2)(b) that is exempt under Subsection (2)(c)(i) may not be greater than
 146 the taxable value of the property described in Subsection (2)(b).

147 (h) For purposes of this section and Section 59-2-1105, a person who is honorably
 148 discharged from military service of [~~the United States or the state~~] an active component of the
 149 United States Armed Forces or a reserve component of the United States Armed Forces:

150 (i) is presumed to be a citizen of the United States; and

151 (ii) [~~shall~~] may not be required to provide additional proof of citizenship to establish
 152 that the [~~veteran~~] person is a citizen of the United States.

153 (3) The Department of Veterans' Affairs created in Section 71-8-2 shall, through an
 154 informal hearing held in accordance with Title 63G, Chapter 4, Administrative Procedures Act,
 155 resolve each dispute arising under this section concerning a veteran's status as a veteran with a
 156 disability.

157 Section 2. Section **59-2-1105** is amended to read:

158 **59-2-1105. Application for Armed Forces exemption -- Rulemaking authority --**
 159 **Statement -- County authority to make refunds.**

160 (1) (a) Except as provided in Subsection 59-2-1101(2)(c), [~~a veteran's~~] an exemption
 161 under Section 59-2-1104 may be allowed only if the interest of the claimant is on record on
 162 January 1 of the year the exemption is claimed.

163 (b) If the claimant has an interest in real property under a contract, the [~~veteran's~~]
 164 exemption under Section 59-2-1104 may be allowed if it is proved to the satisfaction of the
 165 county that the claimant is:

166 (i) the purchaser under the contract; and

167 (ii) obligated to pay the taxes on the property beginning January 1 of the year the
 168 exemption is claimed.

169 (c) If the claimant is the grantor of a trust holding title to real or tangible personal

170 property on which [~~a veteran's~~] an exemption under Section 59-2-1104 is claimed, the claimant
171 may claim the portion of the [~~veteran's~~] exemption under Section 59-2-1104 and be treated as
172 the owner of that portion of the property held in trust for which the claimant proves to the
173 satisfaction of the county that:

174 (i) title to the portion of the trust will revert in the claimant upon the exercise of a
175 power:

176 (A) by:

177 (I) the claimant as grantor of the trust;

178 (II) a nonadverse party; or

179 (III) both the claimant and a nonadverse party; and

180 (B) regardless of whether the power is a power:

181 (I) to revoke;

182 (II) to terminate;

183 (III) to alter;

184 (IV) to amend; or

185 (V) to appoint;

186 (ii) the claimant is obligated to pay the taxes on that portion of the trust property
187 beginning January 1 of the year the claimant claims the exemption; and

188 (iii) the claimant meets the requirements under this part for the exemption.

189 (2) (a) (i) A claimant applying for [~~a veteran's~~] an exemption under [~~this section~~]
190 Section 59-2-1104 shall file an application:

191 (A) with the county in which that [~~person~~] claimant resides; and

192 (B) except as provided in Subsection (2)(b) or (e), on or before September 1 of the year
193 in which that claimant is applying for the [~~veteran's~~] exemption in accordance with this section.

194 (ii) A county shall provide a claimant who files an application for [~~a veteran's~~] an
195 exemption in accordance with this section with a receipt:

196 (A) stating that the county received the claimant's application; and

197 (B) no later than 30 days after the day on which the claimant filed the application in

198 accordance with this section.

199 (b) Notwithstanding Subsection (2)(a)(i)(B) or (2)(e):

200 (i) subject to Subsection (2)(b)(iv), for a claimant who applies for [~~a veteran's~~] an
201 exemption under Section 59-2-1104 on or after January 1, 2004, a county shall extend the
202 deadline for filing the application required by Subsection (2)(a) to September 1 of the year after
203 the year the claimant would otherwise be required to file the application under Subsection
204 (2)(a)(i)(B) if:

205 (A) on or after January 1, 2004, a military entity issues a written decision that the:

206 (I) veteran has a disability; or

207 (II) deceased veteran with a disability with respect to whom the claimant applies for a
208 veteran's exemption had a disability at the time the deceased veteran with a disability died; and

209 (B) the date the written decision described in Subsection (2)(b)(i)(A) takes effect is in
210 any year prior to the current calendar year;

211 (ii) subject to Subsections (2)(b)(iv) and (2)(d), for a claimant who applies for [~~a~~
212 ~~veteran's~~] an exemption under Section 59-2-1104 on or after January 1, 2004, a county shall
213 allow the claimant to amend the application required by Subsection (2)(a) on or before
214 September 1 of the year after the year the claimant filed the application under Subsection
215 (2)(a)(i)(B) if:

216 (A) on or after January 1, 2004, a military entity issues a written decision that the
217 percentage of disability has changed for the:

218 (I) veteran with a disability; or

219 (II) deceased veteran with a disability with respect to whom the claimant applies for [~~a~~
220 ~~veteran's~~] the exemption; and

221 (B) the date the written decision described in Subsection (2)(b)(ii)(A) takes effect is in
222 any year prior to the current calendar year;

223 (iii) subject to Subsections (2)(b)(iv) and (2)(d), for a claimant who applies for [~~a~~
224 ~~veteran's~~] an exemption under Section 59-2-1104 on or after January 1, 2004, a county shall
225 extend the deadline for filing the application required by Subsection (2)(a) to September 1 of

226 the year after the year the claimant would otherwise be required to file the application under
227 Subsection (2)(a)(i)(B) if the county legislative body determines that:

228 (A) the claimant or a member of the claimant's immediate family had an illness or
229 injury that prevented the claimant from filing the application on or before the deadline for
230 filing the application established in Subsection (2)(a)(i)(B);

231 (B) a member of the claimant's immediate family died during the calendar year the
232 claimant was required to file the application under Subsection (2)(a)(i)(B);

233 (C) the claimant was not physically present in the state for a time period of at least six
234 consecutive months during the calendar year the claimant was required to file the application
235 under Subsection (2)(a)(i)(B); or

236 (D) the failure of the claimant to file the application on or before the deadline for filing
237 the application established in Subsection (2)(a)(i)(B):

238 (I) would be against equity or good conscience; and

239 (II) was beyond the reasonable control of the claimant; and

240 (iv) a county may extend the deadline for filing an application or amending an
241 application under this Subsection (2) until December 31 if the county finds that good cause
242 exists to extend the deadline.

243 (c) The following shall accompany the initial application for ~~[a veteran's]~~ an exemption
244 under Section 59-2-1104:

245 (i) a copy of the veteran's certificate of discharge from ~~[the]~~ military service ~~[of:]; or~~
246 ~~[(A) the United States; or]~~

247 ~~[(B) this state; or]~~

248 (ii) other satisfactory evidence of eligible military service, including orders for
249 qualifying active duty military service, if applicable.

250 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
251 commission may by rule:

252 (i) establish procedures and requirements for amending an application under
253 Subsection (2)(b)(ii);

254 (ii) for purposes of Subsection (2)(b)(iii), define the terms:
255 (A) "immediate family"; or
256 (B) "physically present"; or
257 (iii) for purposes of Subsection (2)(b)(iii), prescribe the circumstances under which the
258 failure of a claimant to file an application on or before the deadline for filing the application
259 established in Subsection (2)(a)(i)(B):
260 (A) would be against equity or good conscience; and
261 (B) is beyond the reasonable control of a claimant.
262 (e) ~~[H]~~ Except as provided in Subsection (2)(g), if a claimant has on file with the
263 county the application described in Subsection (2)(a), the county may not require the claimant
264 to file another application described in Subsection (2)(a) unless:
265 (i) the claimant applies all or a portion of an exemption ~~[allowed by this section]~~ under
266 Section 59-2-1104 to any tangible personal property;
267 (ii) the percentage of disability has changed for the:
268 (A) veteran with a disability; or
269 (B) deceased veteran with a disability with respect to whom a claimant applies for a
270 veteran's exemption under this section;
271 (iii) the veteran with a disability dies;
272 (iv) the claimant's ownership interest in the claimant's primary residence changes;
273 (v) the claimant's occupancy of the primary residence for which the claimant claims an
274 exemption under Section 59-2-1104 changes; or
275 (vi) the claimant who files an application for ~~[a veteran's]~~ an exemption under Section
276 59-2-1104 with respect to a deceased veteran with a disability or veteran who was killed in
277 action or died in the line of duty is a person other than the claimant who filed the application
278 described in Subsection (2)(a) for ~~[a veteran's]~~ the exemption:
279 (A) for the calendar year immediately preceding the current calendar year; and
280 (B) with respect to that deceased veteran with a disability or veteran who was killed in
281 action or died in the line of duty.

282 (f) The county may verify that the residential property for which the claimant claims an
283 exemption under Section 59-2-1104 is the claimant's primary residence.

284 (g) A member of an active component of the United States Armed Forces or reserve
285 component of the United States Armed Forces who performed qualifying active duty military
286 service shall:

287 (i) file the application described in Subsection (2)(a) in the year after the year during
288 which the member completes the qualifying active duty military service; and

289 (ii) if the member meets the requirements of Section 59-2-1104 and this section to
290 receive an exemption under Section 59-2-1104, claim one exemption only in the year the
291 member files the application described in Subsection (2)(g)(i).

292 (3) (a) (i) Subject to Subsection (3)(a)(ii), a claimant except for a claimant described in
293 Subsection (2)(g) who files an application for [a-veteran's] an exemption under Section
294 59-2-1104 shall have on file with the county a statement:

295 (A) issued by a military entity; and

296 (B) listing the percentage of disability for the veteran with a disability or deceased
297 veteran with a disability with respect to whom a claimant applies for [a-veteran's] the
298 exemption.

299 (ii) If a claimant except for a claimant described in Subsection (2)(g) has on file with
300 the county the statement described in Subsection (3)(a)(i), the county may not require the
301 claimant to file another statement described in Subsection (3)(a)(i) unless:

302 (A) the claimant who files an application under this section for [a-veteran's] an
303 exemption under Section 59-2-1104 with respect to a deceased veteran with a disability or
304 veteran who was killed in action or died in the line of duty is a person other than the claimant
305 who filed the statement described in Subsection (3)(a)(i) for [a-veteran's] the exemption:

306 (I) for the calendar year immediately preceding the current calendar year; and

307 (II) with respect to that deceased veteran with a disability or veteran who was killed in
308 action or died in the line of duty; or

309 (B) the percentage of disability has changed for a:

310 (I) veteran with a disability; or
311 (II) deceased veteran with a disability with respect to whom the claimant applies for [a
312 veteran's] an exemption under [this section] Section 59-2-1104.

313 (b) For a claimant filing an application in accordance with Subsection (2)(b)(i), the
314 claimant shall include with the application required by Subsection (2) a statement issued by a
315 military entity listing the date the written decision described in Subsection (2)(b)(i)(A) takes
316 effect.

317 (c) For a claimant amending an application in accordance with Subsection (2)(b)(ii),
318 the claimant shall provide to the county a statement issued by a military entity listing the date
319 the written decision described in Subsection (2)(b)(ii)(A) takes effect.

320 (4) (a) For purposes of this Subsection (4):

321 (i) "Property taxes due" means the taxes due on a claimant's property:

322 (A) for which [a veteran's] an exemption under Section 59-2-1104 is granted by a
323 county; and

324 (B) for the calendar year for which the [veteran's] exemption is granted.

325 (ii) "Property taxes paid" is an amount equal to the sum of:

326 (A) the amount of the property taxes the claimant paid for the calendar year for which
327 the claimant is applying for [~~the veteran's~~] an exemption under Section 59-2-1104; and

328 (B) the [veteran's] exemption the county granted for the calendar year described in
329 Subsection (4)(a)(ii)(A).

330 (b) A county granting [a veteran's] an exemption under Section 59-2-1104 to a
331 claimant shall refund to that claimant an amount equal to the amount by which the claimant's
332 property taxes paid exceed the claimant's property taxes due, if that amount is \$1 or more.

333 Section 3. **Effective date.**

334 This bill takes effect on January 1, 2013 if the amendment to the Utah Constitution
335 proposed by S.J.R. 8, Joint Resolution on Property Tax Exemption for Military Personnel,
336 2012 General Session, passes the Legislature and is approved by a majority of those voting on
337 it at the next regular general election.

