

## SB0116S01 compared with SB0116

~~{deleted text}~~ shows text that was in SB0116 but was deleted in SB0116S01.

inserted text shows text that was not in SB0116 but was inserted into SB0116S01.

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Senator John L. Valentine proposes the following substitute bill:

### ARMED FORCES PROPERTY TAX EXEMPTION

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor:** Luz Robles

House Sponsor: ~~{ }~~ Stephen E. Sandstrom

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#### 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 ~~{ in a combat zone in the prior year }~~; and
- ▶ makes technical and conforming changes.

##### Money Appropriated in this Bill:

None

##### Other Special Clauses:

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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

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*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.**

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

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

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

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

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

~~(b)~~ (c) "Claimant" means:

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

(ii) the unmarried surviving spouse:

(A) of a:

(I) deceased veteran with a disability; or

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

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

(iii) a minor orphan:

(A) of a:

(I) deceased veteran with a disability; or

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

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

(iv) a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who performed **qualifying active duty** military service ~~in a combat zone in the prior year.~~

~~— (d) "Combat zone" is as defined in Section 59-10-1027.~~

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

~~(d)~~ ~~(f)~~ (e) "Deceased veteran with a disability" means a deceased person who was a veteran with a disability at the time the person died.

~~(e)~~ ~~(g)~~ (f) "Military entity" means:

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

~~(ii) a component of the armed forces of:~~

~~(A) the United States; or~~

~~(B) the state.]~~

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

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

~~(h)~~ ~~(i)~~ (g) "**Qualifying active duty military service**" means:

(i) at least 200 days in a calendar year, regardless of whether consecutive, of active duty military service ~~in a combat zone~~ is as defined in Section 59-10-1027.

~~(i)~~ outside the state in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces; or

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

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

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

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

~~(f)~~ ~~(i)~~ (j) "Residence" is as defined in Section 59-2-1202, except that a rented

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dwelling is not considered to be a residence.

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

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

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

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

- (i) a veteran with a disability; ~~or~~
- (ii) the unmarried surviving spouse or a minor orphan of a:
  - (A) deceased veteran with a disability; or
  - (B) veteran who was killed in action or died in the line of duty~~[-]; or~~
- (iii) a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who performed **qualifying active duty** military service ~~{ in a combat zone in the prior year }~~.

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

- (i) the claimant's primary residence;
- (ii) for a claimant described in Subsection (2)(a)(i) or (ii), tangible personal property that:

- (A) is held exclusively for personal use; and
- (B) is not used in a trade or business; or
- (iii) for a claimant described in Subsection (2)(a)(i) or (ii), a combination of Subsections (2)(b)(i) and (ii).

(c) Except as provided in Subsection (2)(d) or (e), the amount of taxable value of

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property described in Subsection (2)(b) that is exempt under Subsection (2)(a) is:

(i) as described in Subsection (2)(f), if the property is owned by:

(A) a veteran with a disability;

(B) the unmarried surviving spouse of a deceased veteran with a disability; or

(C) a minor orphan of a deceased veteran with a disability; or

(ii) equal to the total taxable value of the claimant's property described in Subsection

(2)(b) if the property is owned by:

(A) the unmarried surviving spouse of a veteran who was killed in action or died in the line of duty; [or]

(B) a minor orphan of a veteran who was killed in action or died in the line of duty[-];

or

(C) a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who performed qualifying active duty military service ~~f in a combat zone in the prior year~~.

(d) (i) Notwithstanding Subsection (2)(c)(i) and subject to Subsection (2)(d)(ii), a veteran's exemption except for a claimant described in Subsection (2)(a)(iii) may not be allowed under this Subsection (2) if the percentage of disability listed on the certificate described in Subsection 59-2-1105(3)(a) is less than 10%.

(ii) A veteran with a disability is considered to have a 100% disability, regardless of the percentage of disability listed on a certificate described in Subsection 59-2-1105(3)(a), if the United States Department of Veterans' Affairs certifies the veteran in the classification of individual unemployability.

(e) Notwithstanding Subsection (2)(c)(i), a claimant who is the unmarried surviving spouse or minor orphan of a deceased veteran with a disability may claim [~~a veteran's~~] an exemption for the total value of the property described in Subsection (2)(b) if:

(i) the deceased veteran with a disability served in the military service of the United States or the state prior to January 1, 1921; and

(ii) the percentage of disability listed on the certificate described in Subsection 59-2-1105(3)(a) for the deceased veteran with a disability is 10% or more.

(f) Except as provided in Subsection (2)(g), the amount of the taxable value of the property described in Subsection (2)(b) that is exempt under Subsection (2)(c)(i) is equal to the

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

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

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

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

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

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

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

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

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

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

(i) the purchaser under the contract; and

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

(c) If the claimant is the grantor of a trust holding title to real or tangible personal property on which [~~a veteran's~~] an exemption under Section 59-2-1104 is claimed, the claimant may claim the portion of the [~~veteran's~~] exemption under Section 59-2-1104 and be treated as the owner of that portion of the property held in trust for which the claimant proves to the

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satisfaction of the county that:

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

(A) by:

(I) the claimant as grantor of the trust;

(II) a nonadverse party; or

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

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

(I) to revoke;

(II) to terminate;

(III) to alter;

(IV) to amend; or

(V) to appoint;

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

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

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

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

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

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

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

(B) no later than 30 days after the day on which the claimant filed the application in accordance with this section.

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

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

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(2)(a)(i)(B) if:

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

(I) veteran has a disability; or

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

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

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

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

(I) veteran with a disability; or

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

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

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

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

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

(C) the claimant was not physically present in the state for a time period of at least six consecutive months during the calendar year the claimant was required to file the application

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under Subsection (2)(a)(i)(B); or

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

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

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

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

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

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

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

(ii) other satisfactory evidence of eligible military service, including orders for qualifying active duty military service ~~{ in a combat zone }~~, if applicable.

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

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

(ii) for purposes of Subsection (2)(b)(iii), define the terms:

(A) "immediate family"; or

(B) "physically present"; or

(iii) for purposes of Subsection (2)(b)(iii), prescribe the circumstances under which the failure of a claimant to file an application on or before the deadline for filing the application established in Subsection (2)(a)(i)(B):

(A) would be against equity or good conscience; and

(B) is beyond the reasonable control of a claimant.

(e) ~~[If]~~ Except as provided in Subsection (2)(g), if a claimant has on file with the county the application described in Subsection (2)(a), the county may not require the claimant to file another application described in Subsection (2)(a) unless:

(i) the claimant applies all or a portion of an exemption ~~[allowed by this section]~~ under

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Section 59-2-1104 to any tangible personal property;

(ii) the percentage of disability has changed for the:

(A) veteran with a disability; or

(B) deceased veteran with a disability with respect to whom a claimant applies for a veteran's exemption under this section;

(iii) the veteran with a disability dies;

(iv) the claimant's ownership interest in the claimant's primary residence changes;

(v) the claimant's occupancy of the primary residence for which the claimant claims an exemption under Section 59-2-1104 changes; or

(vi) the claimant who files an application for [~~a veteran's~~] an exemption under Section 59-2-1104 with respect to a deceased veteran with a disability or veteran who was killed in action or died in the line of duty is a person other than the claimant who filed the application described in Subsection (2)(a) for [~~a veteran's~~] the exemption:

(A) for the calendar year immediately preceding the current calendar year; and

(B) with respect to that deceased veteran with a disability or veteran who was killed in action or died in the line of duty.

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

(g) A member of an active component of the United States Armed Forces or reserve component of the United States Armed Forces who performed **qualifying active duty** military service ~~in a combat zone in the prior year~~ shall ~~annually~~:

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

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

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

(A) issued by a military entity; and

(B) listing the percentage of disability for the veteran with a disability or deceased

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veteran with a disability with respect to whom a claimant applies for [~~a veteran's~~] the exemption.

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

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

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

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

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

(I) veteran with a disability; or

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

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

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

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

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

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

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

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

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

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

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

### Section 3. **Effective date.**

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

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**Legislative Review Note**

~~as of 1-16-12 6:16 PM~~

~~Office of Legislative Research and General Counsel~~