

HB0242S01 compared with HB0242

~~text~~ shows text that was in HB0242 but was deleted in HB0242S01.

text shows text that was not in HB0242 but was inserted into HB0242S01.

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Representative V. Lowry Snow proposes the following substitute bill:

PROPERTY TAX RESIDENTIAL EXEMPTION AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: V. Lowry Snow

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Property Tax Act to address the exemption for residential property.

Highlighted Provisions:

This bill:

- ▶ provides procedures and requirements to obtain a residential exemption for a portion of a calendar year for property that is not residential property on January 1 of the calendar year but becomes residential property after January 1 of ~~a~~that calendar year; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

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This bill takes effect on January 1, 2014.

Utah Code Sections Affected:

AMENDS:

59-2-103.5, as last amended by Laws of Utah 2011, Chapter 410

ENACTS:

59-2-103.6, Utah Code Annotated 1953

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

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

**59-2-103.5. Procedures to obtain an exemption for residential property --
Procedure if property owner or property no longer qualifies to receive a residential
exemption.**

(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;

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(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 63G, Chapter 3, 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.

(5) Notwithstanding Subsection (3), procedures and requirements for allowing a residential exemption for a portion of a calendar year for property that is not residential property on January 1 of ~~fa~~the calendar year but becomes residential property after January 1 of that calendar year are as provided in Section 59-2-103.6.

~~[(5)]~~ (6) Except as provided in Subsection ~~[(6)]~~ (7), if a property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for that property owner's primary residence, the property owner shall:

(a) file a written statement with the county board of equalization of the county in which the property is located:

(i) on a form provided by the county board of equalization; and

(ii) notifying the county board of equalization that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for that property owner's primary residence; and

(b) declare on the property owner's individual income tax return under Chapter 10,

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Individual Income Tax Act, for the taxable year for which the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for that property owner's primary residence, that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for that property owner's primary residence.

~~[(6)]~~ (7) A property owner is not required to file a written statement or make the declaration described in Subsection ~~[(5)]~~ (6) if the property owner:

- (a) changes primary residences;
- (b) qualified to receive a residential exemption authorized under Section 59-2-103 for the residence that was the property owner's former primary residence; and
- (c) ~~{ subject to Subsection (8),}~~ (i) qualifies to receive a residential exemption authorized under Section 59-2-103 for the residence that is the property owner's current primary residence~~};~~

~~—— (8) For purposes of Subsection (7)(c), if a} ~~[-]; or~~~~

~~(ii) subject to Subsection (8), has made an application with the county board of equalization {determines that an owner is allowed} to claim a residential exemption for a portion of a calendar year {under} in accordance with Section 59-2-103.6 {, the owner is considered to qualify} for the property owner's current primary residence.~~

~~(8) A property owner who makes an application with the county board of equalization under Subsection (7)(c)(ii) shall file a written statement and make the declaration described in Subsection (6):~~

~~(a) if the property with respect to which the application is filed is determined to be ineligible to receive a residential exemption authorized under Section 59-2-103 {for the calendar} in a final, unappealable decision issued by the county board of equalization, the commission, or a court of competent jurisdiction; and~~

~~(b) for the year in which the {owner applies for the residential exemption under Section 59-2-103.6, regardless of whether Section 59-2-103.6 requires the owner to:~~

~~(a) claim the residential exemption in the current calendar year; or~~

~~(b) claim a refund in the next calendar year} decision described in Subsection (8)(a) is issued.~~

Section 2. Section **59-2-103.6** is enacted to read:

59-2-103.6. Procedures and requirements to claim residential exemption for

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portion of calendar year.

(1) Subject to Sections 59-2-103 and 59-2-103.5 and the other provisions of this section, if property is not residential property on January 1 of a calendar year but becomes residential property after January 1 of that calendar year, an owner of the property may claim a residential exemption under Section 59-2-103 for the residential property for the portion of the calendar year that the property is residential property.

~~(2) If the property described in Subsection (1) becomes residential property:~~

~~— (a) before March 1, an owner may claim the residential exemption in the current calendar year as calculated under Subsection (5); or~~

~~— (b) on or after March 1, an owner may claim a refund in the next calendar year as calculated under Subsection (6);~~

~~(3) To claim a residential exemption for a portion of a calendar year that property is residential property, an owner shall:~~

~~(a) file~~ make an application with the county board of equalization:

~~(i) a~~ on a form the commission prescribes; and

~~(ii) (A) for an owner that claims the residential exemption in the current calendar year, on or before April 1 of that current calendar year; or~~

~~(B) for an owner that claims a refund in the next calendar year, on or before April 1 of that next calendar year; and~~

~~(b) provide the county board of equalization~~ to appeal the valuation of the property;
and

(b) except as provided in Subsection (3), in accordance with Section 59-2-1004.

(3) Notwithstanding Section 59-2-1004:

(a) an owner shall include with the application described in Subsection (2)(a)

documentation to establish:

(i) that the property is residential property; and

(ii) the date the property became residential property;

~~(4); and~~

(b) the date prescribed in Section 59-2-1004 for making an application to the county board of equalization is extended to 30 days after the date the property becomes residential property if the property becomes residential property;

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(i) after the date the application is required to be made under Section 59-2-1004; or

(ii) less than 30 days before the date the application is required to be made under Section 59-2-1004.

(4) A county board of equalization shall adjudicate an appeal under this section in accordance with Section 59-2-1004.

(5) If an owner is dissatisfied with the decision of the county board of equalization, the owner may file an appeal with the commission in accordance with Section 59-2-1006.

(6) If an owner is dissatisfied with the decision of the commission, the owner may seek judicial review in accordance with Chapter 1, Part 6, Judicial Review.

(7) If a county board of equalization, the commission, or a court of competent jurisdiction determines that ~~an owner's~~ property is ~~not allowed a~~ residential ~~exemption~~ property for a portion of a calendar year, the county board of equalization, the commission, or the court of competent jurisdiction shall:

(a) ~~deny the owner's application; and~~

~~(b) provide the grounds for the denial to the owner in writing;~~

~~(5) If a county board of equalization determines that an owner is allowed a residential exemption for a portion of a calendar year, the county board of equalization shall determine the tax due for the calendar year as follows:~~

~~(a) the county board of equalization shall determine the property tax that would have been due for the current calendar year had the property:~~

~~(i) been residential property eligible for; ~~adjust the value of the property to reflect~~ the residential exemption under Section 59-2-103 for ~~the entire~~ that portion of the calendar year;~~

and

~~(ii) not been residential property for the entire calendar year;~~

~~(b) the county board of equalization shall divide the amount determined under:~~

~~(i) Subsection (5)(a)(i) by 365; and~~

~~(ii) Subsection (5)(a)(ii) by 365;~~

~~(c) the county board of equalization shall multiply the amount determined under:~~

~~(i) Subsection (5)(b)(i) by the number of days in the current calendar year that the property is residential property; and~~

~~(ii) Subsection (5)(b)(ii) by the number of days in the current calendar year that the~~

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~~property is not residential property; and~~

~~—— (d) the county board of equalization shall determine the tax due for the calendar year by adding the amount determined under Subsection (5)(c)(i) and the amount determined under Subsection (5)(c)(ii);~~

~~—— (6) If an owner who is allowed a residential exemption for a portion of a calendar year is required to claim a refund under Subsection (2)(b), the amount of the refund is equal to the difference between:~~

~~—— (a) the property tax the owner paid for the calendar year for which the owner applied under this section for a residential exemption; and~~

~~—— (b) the amount the county board of equalization determines to be the tax due for the calendar year under Subsection (5)(d);~~ b) if the owner has paid the tax due under this chapter for that calendar year, order the county auditor to refund any overpayment to the owner.

Section 3. **Effective date.**

This bill takes effect on January 1, 2014.

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Legislative Review Note

~~—— as of 1-4-13 10:44 AM~~

~~—— Office of Legislative Research and General Counsel}~~