

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 but becomes residential property after January 1 of a calendar year; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

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:



28 **59-2-103.5. Procedures to obtain an exemption for residential property --**
29 **Procedure if property owner or property no longer qualifies to receive a residential**
30 **exemption.**

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

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

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

- 42 (i) the county legislative body enacts the ordinance described in Subsection (1); and
 - 43 (ii) the county board of equalization determines that the requirements of Subsection (1)
- 44 are met.

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

- 47 (i) that residential property was ineligible for the residential exemption authorized
- 48 under Section 59-2-103 during the calendar year immediately preceding the calendar year for
- 49 which the owner is seeking to claim the residential exemption for that residential property;
- 50 (ii) an ownership interest in that residential property changes; or
- 51 (iii) the county board of equalization determines that there is reason to believe that that
- 52 residential property no longer qualifies for the residential exemption in accordance with
- 53 Section 59-2-103.

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

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

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

61 (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
62 the commission shall make rules providing:

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

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

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

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

71 [~~5~~] (6) Except as provided in Subsection [~~6~~] (7), if a property owner no longer
72 qualifies to receive a residential exemption authorized under Section 59-2-103 for that property
73 owner's primary residence, the property owner shall:

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

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

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

80 (b) declare on the property owner's individual income tax return under Chapter 10,
81 Individual Income Tax Act, for the taxable year for which the property owner no longer
82 qualifies to receive a residential exemption authorized under Section 59-2-103 for that property
83 owner's primary residence, that the property owner no longer qualifies to receive a residential
84 exemption authorized under Section 59-2-103 for that property owner's primary residence.

85 [~~6~~] (7) A property owner is not required to file a written statement or make the
86 declaration described in Subsection [~~5~~] (6) if the property owner:

87 (a) changes primary residences;

88 (b) qualified to receive a residential exemption authorized under Section 59-2-103 for
89 the residence that was the property owner's former primary residence; and

90 (c) subject to Subsection (8), qualifies to receive a residential exemption authorized
91 under Section 59-2-103 for the residence that is the property owner's current primary residence.

92 (8) For purposes of Subsection (7)(c), if a county board of equalization determines that
93 an owner is allowed a residential exemption for a portion of a calendar year under Section
94 59-2-103.6, the owner is considered to qualify to receive a residential exemption under Section
95 59-2-103 for the calendar year in which the owner applies for the residential exemption under
96 Section 59-2-103.6, regardless of whether Section 59-2-103.6 requires the owner to:

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

98 (b) claim a refund in the next calendar year.

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

100 **59-2-103.6. Procedures and requirements to claim residential exemption for**
101 **portion of calendar year.**

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

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

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

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

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

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

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

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

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

120 (b) provide the county board of equalization documentation to establish:

- 121 (i) that the property is residential property; and
- 122 (ii) the date the property became residential property.
- 123 (4) If a county board of equalization determines that an owner is not allowed a
- 124 residential exemption for a portion of a calendar year, the county board of equalization shall:
- 125 (a) deny the owner's application; and
- 126 (b) provide the grounds for the denial to the owner in writing.
- 127 (5) If a county board of equalization determines that an owner is allowed a residential
- 128 exemption for a portion of a calendar year, the county board of equalization shall determine the
- 129 tax due for the calendar year as follows:
- 130 (a) the county board of equalization shall determine the property tax that would have
- 131 been due for the current calendar year had the property:
- 132 (i) been residential property eligible for the residential exemption under Section
- 133 59-2-103 for the entire calendar year; and
- 134 (ii) not been residential property for the entire calendar year;
- 135 (b) the county board of equalization shall divide the amount determined under:
- 136 (i) Subsection (5)(a)(i) by 365; and
- 137 (ii) Subsection (5)(a)(ii) by 365;
- 138 (c) the county board of equalization shall multiply the amount determined under:
- 139 (i) Subsection (5)(b)(i) by the number of days in the current calendar year that the
- 140 property is residential property; and
- 141 (ii) Subsection (5)(b)(ii) by the number of days in the current calendar year that the
- 142 property is not residential property; and
- 143 (d) the county board of equalization shall determine the tax due for the calendar year
- 144 by adding the amount determined under Subsection (5)(c)(i) and the amount determined under
- 145 Subsection (5)(c)(ii).
- 146 (6) If an owner who is allowed a residential exemption for a portion of a calendar year
- 147 is required to claim a refund under Subsection (2)(b), the amount of the refund is equal to the
- 148 difference between:
- 149 (a) the property tax the owner paid for the calendar year for which the owner applied
- 150 under this section for a residential exemption; and
- 151 (b) the amount the county board of equalization determines to be the tax due for the

152 calendar year under Subsection (5)(d).

153 Section 3. **Effective date.**

154 This bill takes effect on January 1, 2014.

Legislative Review Note

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Office of Legislative Research and General Counsel