

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 that 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



26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56

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;
- (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

57 board of equalization:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

91 (c) (i) qualifies to receive a residential exemption authorized under Section 59-2-103
92 for the residence that is the property owner's current primary residence[-]; or

93 (ii) subject to Subsection (8), has made an application with the county board of
94 equalization to claim a residential exemption for a portion of a calendar year in accordance
95 with Section 59-2-103.6 for the property owner's current primary residence.

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

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

103 (b) for the year in which the decision described in Subsection (8)(a) is issued.

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

105 **59-2-103.6. Procedures and requirements to claim residential exemption for**
106 **portion of calendar year.**

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

112 (2) To claim a residential exemption for a portion of a calendar year that property is
113 residential property, an owner shall make an application with the county board of equalization:

114 (a) to appeal the valuation of the property; and

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

116 (3) Notwithstanding Section 59-2-1004:

117 (a) an owner shall include with the application described in Subsection (2)(a)
118 documentation to establish:

119 (i) that the property is residential property; and
120 (ii) the date the property became residential property; and
121 (b) the date prescribed in Section 59-2-1004 for making an application to the county
122 board of equalization is extended to 30 days after the date the property becomes residential
123 property if the property becomes residential property:

124 (i) after the date the application is required to be made under Section 59-2-1004; or
125 (ii) less than 30 days before the date the application is required to be made under
126 Section 59-2-1004.

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

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

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

133 (7) If a county board of equalization, the commission, or a court of competent
134 jurisdiction determines that property is residential property for a portion of a calendar year, the
135 county board of equalization, the commission, or the court of competent jurisdiction shall:

136 (a) adjust the value of the property to reflect the residential exemption under Section
137 59-2-103 for that portion of the calendar year; and

138 (b) if the owner has paid the tax due under this chapter for that calendar year, order the
139 county auditor to refund any overpayment to the owner.

140 Section 3. **Effective date.**

141 This bill takes effect on January 1, 2014.