

1 **URBAN FARMING AMENDMENTS**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: J. Stuart Adams**

5 House Sponsor: Steve Eliason

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7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Urban Farming Assessment Act.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ amends the definition of "urban farming" to include certain counties of the second  
13 class;

14 ▶ states that land may be assessed on the basis of value that the land has for  
15 agricultural use if, among other things, the land is at least two contiguous acres in  
16 size;

17 ▶ states that land that is withdrawn from assessment under the Urban Farming  
18 Assessment Act is subject to a rollback tax for the previous five years; and

19 ▶ makes technical changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **59-2-1702**, as enacted by Laws of Utah 2012, Chapter 197

27 **59-2-1703**, as enacted by Laws of Utah 2012, Chapter 197

28 **59-2-1705**, as enacted by Laws of Utah 2012, Chapter 197

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

31 Section 1. Section **59-2-1702** is amended to read:

32 **59-2-1702. Definitions.**

33 As used in this part:

34 (1) "Actively devoted to urban farming" means that:

35 (a) land is devoted to active urban farming activities;

36 (b) the land produces greater than 50% of the average agricultural production per acre:

37 (i) as determined under Section [59-2-1703](#); and

38 (ii) for the given type of land and the given county or area.

39 (2) "Rollback tax" means the tax imposed under Section [59-2-1705](#).

40 (3) (a) Subject to Subsection (3)(b), "urban farming" means cultivating food:

41 (i) with a reasonable expectation of profit from the sale of the food; and

42 (ii) from irrigated land located in a county;

43 (A) of the first class[-], as defined in Section [17-50-501](#); or

44 (B) of the second class, as defined in Section [17-50-501](#), if the county is at least 98%

45 urban, as determined by the United States Census Bureau.

46 (b) "Urban farming" does not include:

47 (i) cultivating food derived from an animal; or

48 (ii) grazing.

49 (4) "Withdrawn from this part" means that land that has been assessed under this part is

50 no longer assessed under this part or eligible for assessment under this part for any reason

51 including that:

52 (a) an owner voluntarily requests that the land be withdrawn from this part;

53 (b) the land is no longer actively devoted to urban farming;

54 (c) (i) the land has a change in ownership; and

55 (ii) (A) the new owner fails to apply for assessment under this part as required by

56 Section [59-2-1707](#); or

57 (B) an owner applies for assessment under this part, as required by Section [59-2-1707](#),

58 but the land does not meet the requirements of this part to be assessed under this part;  
59 (d) (i) the legal description of the land changes; and  
60 (ii) (A) an owner fails to apply for assessment under this part, as required by Section  
61 59-2-1707; or  
62 (B) an owner applies for assessment under this part, as required by Section 59-2-1707,  
63 but the land does not meet the requirements of this part to be assessed under this part;  
64 (e) the owner of the land fails to file an application as provided in Section 59-2-1707;  
65 or  
66 (f) except as provided in Section 59-2-1703, the land fails to meet a requirement of  
67 Section 59-2-1703.

68 Section 2. Section 59-2-1703 is amended to read:

69 **59-2-1703. Qualifications for urban farming assessment.**

70 (1) (a) For general property tax purposes, land may be assessed on the basis of the  
71 value that the land has for agricultural use if the land:

- 72 (i) is actively devoted to urban farming;
- 73 (ii) is at least two contiguous acres, but less than five acres, in size; and
- 74 (iii) has been actively devoted to urban farming for at least two successive years  
75 immediately preceding the tax year for which the land is assessed under this part.

76 (b) Land that is not actively devoted to urban farming may not be assessed as provided  
77 in Subsection (1)(a), even if the land is part of a parcel that includes land actively devoted to  
78 urban farming.

79 (2) (a) In determining whether land is actively devoted to urban farming, production  
80 per acre for a given county or area and a given type of land shall be determined by using the  
81 first applicable of the following:

- 82 (i) production levels reported in the current publication of Utah Agricultural Statistics;
- 83 (ii) current crop budgets developed and published by Utah State University; or
- 84 ~~[(iii) other acceptable standards of agricultural production designated by the~~  
85 ~~commission by rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative~~

86 Rulemaking Act, using:]

87 [~~(A) information provided annually to the commission by the county assessor in a~~  
88 ~~county where urban farming occurs; and]~~

89 [~~(B) other information the commission determines is appropriate.]~~

90 (iii) the highest per acre value used for land assessed under the Farmland Assessment  
91 Act for the county in which the property is located.

92 (b) A county assessor may not assess land actively devoted to urban farming on the  
93 basis of the value that the land has for agricultural use under this part unless an owner annually  
94 files documentation with the county assessor:

95 (i) on a form provided by the county assessor;

96 (ii) demonstrating to the satisfaction of the county assessor that the land meets the  
97 production levels required under this part; and

98 (iii) except as provided in Subsection 59-2-1707(2)(c)(i), no later than January 30 for  
99 each tax year in which the owner applies for assessment under this part.

100 (3) Notwithstanding Subsection (1)(a)(ii), a county board of equalization may grant a  
101 waiver of the acreage requirements of Subsection (1)(a)(ii):

102 (a) on appeal by an owner; and

103 (b) if the owner submits documentation to the county assessor demonstrating to the  
104 satisfaction of the county assessor that:

105 (i) the failure to meet the acreage requirements of Subsection (1)(a)(ii) arose solely as a  
106 result of an acquisition by a governmental entity by:

107 (A) eminent domain; or

108 (B) the threat or imminence of an eminent domain proceeding;

109 (ii) the land is actively devoted to urban farming; and

110 (iii) no change occurs in the ownership of the land.

111 Section 3. Section 59-2-1705 is amended to read:

112 **59-2-1705. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien --**  
113 **Interest -- Notice -- Collection -- Distribution -- Appeal to county board of equalization.**

114 (1) Except as provided in this section or Section 59-2-1710, land that is withdrawn  
115 from this part is subject to a rollback tax imposed as provided in this section.

116 (2) (a) An owner shall notify the county assessor that land is withdrawn from this part  
117 within 120 days after the day on which the land is withdrawn from this part.

118 (b) An owner who fails to notify the county assessor under Subsection (2)(a) that land  
119 is withdrawn from this part is subject to a penalty equal to the greater of:

120 (i) \$10; or

121 (ii) 2% of the rollback tax due for the last year of the rollback period.

122 (3) (a) The county assessor shall determine the amount of the rollback tax by  
123 computing the difference for the rollback period described in Subsection (3)(b) between:

124 (i) the tax paid while the land was assessed under this part; and

125 (ii) the tax that would have been paid had the property not been assessed under this  
126 part.

127 (b) For purposes of this section, the rollback period is a time period that:

128 (i) begins on the later of:

129 (A) the date the land is first assessed under this part; or

130 (B) [~~10~~] five years preceding the day on which the county assessor mails the notice  
131 required by Subsection (5); and

132 (ii) ends the day on which the county assessor mails the notice required by Subsection  
133 (5).

134 (4) (a) The county treasurer shall:

135 (i) collect the rollback tax; and

136 (ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien  
137 on the property has been satisfied by:

138 (A) preparing a document that certifies that the rollback tax lien on the property has  
139 been satisfied; and

140 (B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder  
141 for recording.

142 (b) The rollback tax collected under this section shall:  
143 (i) be paid into the county treasury; and  
144 (ii) be paid by the county treasurer to the various taxing entities pro rata in accordance  
145 with the property tax levies for the current year.

146 (5) (a) The county assessor shall mail to an owner of the land that is subject to a  
147 rollback tax a notice that:

148 (i) the land is withdrawn from this part;  
149 (ii) the land is subject to a rollback tax under this section; and  
150 (iii) the rollback tax is delinquent if the owner of the land does not pay the tax within  
151 30 days after the day on which the county assessor mails the notice.

152 (b) (i) The rollback tax is due and payable on the day the county assessor mails the  
153 notice required by Subsection (5)(a).

154 (ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that  
155 is withdrawn from this part does not pay the rollback tax within 30 days after the day on which  
156 the county assessor mails the notice required by Subsection (5)(a).

157 (6) (a) Subject to Subsection (6)(b), the rollback tax and interest imposed under  
158 Subsection (7) are a lien on the land assessed under this part.

159 (b) The lien described in Subsection (6)(a) shall:  
160 (i) arise upon the imposition of the rollback tax under this section;  
161 (ii) end on the day on which the rollback tax and interest imposed under Subsection (7)  
162 are paid in full; and  
163 (iii) relate back to the first day of the rollback period described in Subsection (3)(b).

164 (7) (a) A delinquent rollback tax under this section shall accrue interest:

165 (i) from the date of delinquency until paid; and  
166 (ii) at the interest rate established under Section 59-2-1331 and in effect on January 1  
167 of the year in which the delinquency occurs.

168 (b) A rollback tax that is delinquent on September 1 of any year shall be included on  
169 the notice required by Section 59-2-1317, along with interest calculated on that delinquent

170 amount through November 30 of the year in which the notice under Section 59-2-1317 is  
171 mailed.

172 (8) (a) Land that becomes ineligible for assessment under this part only as a result of an  
173 amendment to this part is not subject to the rollback tax if the owner of the land notifies the  
174 county assessor that the land is withdrawn from this part in accordance with Subsection (2).

175 (b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of  
176 an event other than an amendment to this part, whether voluntary or involuntary, is subject to  
177 the rollback tax.

178 (9) Except as provided in Section 59-2-1710, land that becomes exempt from taxation  
179 under Utah Constitution, Article XIII, Section 3, is not subject to the rollback tax if the land  
180 meets the requirements of Section 59-2-1703 to be assessed under this part.

181 (10) (a) Subject to Subsection (10)(b), an owner of land may appeal to the county  
182 board of equalization:

- 183 (i) a decision by a county assessor to withdraw land from assessment under this part; or
- 184 (ii) the imposition of a rollback tax under this section.

185 (b) An owner shall file an appeal under Subsection (10)(a) no later than 45 days after  
186 the day on which the county assessor mails the notice required by Subsection (5).