

**PROPERTY TAX REVISIONS**

2021 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE**

**General Description:**

This bill modifies provisions of the Property Tax Act.

**Highlighted Provisions:**

This bill:

- ▶ addresses the deadline to file an application to apply a residential exemption to the value of a part-year residential property; and
- ▶ upon a showing of reasonable cause, allows a county to waive or reduce a penalty for failure to file a required signed statement of a person's real and personal property that is assessable by the assessor.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides retrospective operation.

**Utah Code Sections Affected:**

AMENDS:

**59-2-103.5**, as last amended by Laws of Utah 2020, Chapter 78

**59-2-307**, as last amended by Laws of Utah 2011, Chapter 163

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*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 Subsection (8), for residential property other than part-year residential property, a county legislative body may adopt an ordinance that requires an owner to file an application with the county board of equalization before a residential exemption under Section 59-2-103 may be applied to the value of the residential property if:

33 (a) the residential property was ineligible for the residential exemption during the  
34 calendar year immediately preceding the calendar year for which the owner is seeking to have  
35 the residential exemption applied to the value of the residential property;

36 (b) an ownership interest in the residential property changes; or

37 (c) the county board of equalization determines that there is reason to believe that the  
38 residential property no longer qualifies for the residential exemption.

39 (2) (a) The application described in Subsection (1):

40 (i) shall be on a form the commission prescribes by rule and makes available to the  
41 counties;

42 (ii) shall be signed by the owner of the residential property; and

43 (iii) may not request the sales price of the residential property.

44 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
45 commission may make rules prescribing the contents of the form described in Subsection  
46 (2)(a).

47 (c) For purposes of the application described in Subsection (1), a county may not  
48 request information from an owner of a residential property beyond the information provided in  
49 the form prescribed by the commission under this Subsection (2).

50 (3) (a) Regardless of whether a county legislative body adopts an ordinance described  
51 in Subsection (1), before a residential exemption may be applied to the value of part-year  
52 residential property, an owner of the property shall:

53 (i) file the application described in Subsection (2)(a) with the county board of  
54 equalization; and

55 (ii) include as part of the application described in Subsection (2)(a) a statement that  
56 certifies:

57 (A) the date the part-year residential property became residential property;

58 (B) that the part-year residential property will be used as residential property for 183 or  
59 more consecutive calendar days during the calendar year for which the owner seeks to obtain  
60 the residential exemption; and

61 (C) that the owner, or a member of the owner's household, may not claim a residential  
62 exemption for any property for the calendar year for which the owner seeks to obtain the  
63 residential exemption, other than the part-year residential property, or as allowed under Section

64 59-2-103 with respect to the primary residence or household furnishings, furniture, and  
65 equipment of the owner's tenant.

66 ~~[(b) An owner may not obtain a residential exemption for part-year residential property~~  
67 ~~unless the owner files an application under this Subsection (3) on or before November 30 of the~~  
68 ~~calendar year for which the owner seeks to obtain the residential exemption.]~~

69 ~~[(c)]~~ (b) If an owner files an application under this Subsection (3) on or after May 1 of  
70 the calendar year for which the owner seeks to obtain the residential exemption, the county  
71 board of equalization may require the owner to pay an application fee ~~[of]~~ not to exceed \$50.

72 (4) Except as provided in Subsection (5), if a property owner no longer qualifies to  
73 receive a residential exemption authorized under Section 59-2-103 for the property owner's  
74 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 the 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 the 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 the property owner's primary residence.

86 (5) A property owner is not required to file a written statement or make the declaration  
87 described in Subsection (4) 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) qualifies to receive a residential exemption authorized under Section 59-2-103 for  
92 the residence that is the property owner's current primary residence.

93 (6) Subsections (2) through (5) do not apply to qualifying exempt primary residential  
94 rental personal property.

95 (7) (a) Subject to Subsection (8), for the first calendar year in which a property owner  
96 qualifies to receive a residential exemption under Section 59-2-103, a county assessor may  
97 require the property owner to file a signed statement described in Section 59-2-306.

98 (b) Subject to Subsection (8) and notwithstanding Section 59-2-306, for a calendar year  
99 after the calendar year described in Subsection (7)(a) in which a property owner qualifies for an  
100 exemption described in Subsection 59-2-1115(2) for qualifying exempt primary residential  
101 rental personal property, a signed statement described in Section 59-2-306 with respect to the  
102 qualifying exempt primary residential rental personal property may only require the property  
103 owner to certify, under penalty of perjury, that the property owner qualifies for the exemption  
104 under Subsection 59-2-1115(2).

105 (8) (a) Subject to the requirements of this Subsection (8) and except as provided in  
106 Subsection (8)(b), on or before May 1, 2020, a county assessor shall:

107 (i) notify each owner of residential property that the owner is required to submit a  
108 written declaration described in Subsection (8)(d) within 30 days after the day on which the  
109 county assessor mails the notice under this Subsection (8)(a); and

110 (ii) provide each owner with a form described in Subsection (8)(e) to make the written  
111 declaration described in Subsection (8)(d).

112 (b) A county assessor is not required to provide a notice to an owner of residential  
113 property under Subsection (8)(a) if the situs address of the residential property is the same as  
114 any one of the following:

115 (i) the mailing address of the residential property owner or the tenant of the residential  
116 property;

117 (ii) the address listed on the:

118 (A) residential property owner's driver license; or

119 (B) tenant of the residential property's driver license; or

120 (iii) the address listed on the:

121 (A) residential property owner's voter registration; or

122 (B) tenant of the residential property's voter registration.

123 (c) After an ownership interest in residential property changes, the county assessor  
124 shall:

125 (i) notify the owner of the residential property that the owner is required to submit a

126 written declaration described in Subsection (8)(d) within 90 days after the day on which the  
127 owner receives notice under this Subsection (8)(c); and

128 (ii) provide the owner of the residential property with the form described in Subsection  
129 (8)(e) to make the written declaration described in Subsection (8)(d).

130 (d) An owner of residential property that receives a notice described in Subsection  
131 (8)(a) or (c) shall submit a written declaration to the county assessor under penalty of perjury  
132 certifying the information contained in the form provided in Subsection (8)(e).

133 (e) The written declaration required by Subsection (8)(d) shall be:

134 (i) signed by the owner of the residential property; and

135 (ii) in substantially the following form:

136 "Residential Property Declaration

137 This form must be submitted to the County Assessor's office where your new residential  
138 property is located within 90 days of receipt. Failure to do so will result in the county assessor  
139 taking action that could result in the withdrawal of the primary residential exemption from your  
140 residential property.

141 Residential Property Owner Information

142 Name(s): \_\_\_\_\_

143 Home Phone: \_\_\_\_\_

144 Work Phone: \_\_\_\_\_

145 Mailing Address: \_\_\_\_\_

146 Residential Property Information

147 Physical Address: \_\_\_\_\_

148 Certification

149 1. Is this property used as a primary residential property or part-year residential  
150 property for you or another person?

151 "Part-year residential property" means owned property that is not residential property on  
152 January 1 of a calendar year but becomes residential property after January 1 of the calendar  
153 year.

154 Yes No

155 2. Will this primary residential property or part-year residential property be occupied  
156 for 183 or more consecutive calendar days by the owner or another person?

157 A part-year residential property occupied for 183 or more consecutive calendar days in  
158 a calendar year by the owner(s) or a tenant is eligible for the exemption.

159 Yes No

160 If a property owner or a property owner's spouse claims a residential exemption under  
161 Utah Code Ann. § 59-2-103 for property in this state that is the primary residence of the  
162 property owner or the property owner's spouse, that claim of a residential exemption creates a  
163 rebuttable presumption that the property owner and the property owner's spouse have domicile  
164 in Utah for income tax purposes. The rebuttable presumption of domicile does not apply if the  
165 residential property is the primary residence of a tenant of the property owner or the property  
166 owner's spouse.

167 Signature

168 This form must be signed by all owners of the property.

169 Under penalties of perjury, I declare to the best of my knowledge and belief, this  
170 declaration and accompanying pages are true, correct, and complete.

171 \_\_\_\_\_(Owner signature) \_\_\_\_\_Date (mm/dd/yyyy)

172 \_\_\_\_\_(Owner printed name)

173 (f) For purposes of a written declaration described in this Subsection (8), a county may  
174 not request information from a property owner beyond the information described in the form  
175 provided in Subsection (8)(e).

176 (g) (i) If, after receiving a written declaration filed under Subsection (8)(d), the county  
177 determines that the property has been incorrectly qualified or disqualified to receive a  
178 residential exemption, the county shall:

179 (A) redetermine the property's qualification to receive a residential exemption; and

180 (B) notify the claimant of the redetermination and its reason for the redetermination.

181 (ii) The redetermination provided in Subsection (8)(g)(i)(A) is final unless appealed  
182 within 30 days after the notice required by Subsection (8)(g)(i)(B).

183 (h) (i) If a residential property owner fails to file a written declaration required by  
184 Subsection (8)(d), the county assessor shall mail to the owner of the residential property a  
185 notice that:

186 (A) the property owner failed to file a written declaration as required by Subsection

187 (8)(d); and

188 (B) the property owner will no longer qualify to receive the residential exemption  
189 authorized under Section 59-2-103 for the property that is the subject of the written declaration  
190 if the property owner does not file the written declaration required by Subsection (8)(d) within  
191 30 days after the day on which the county assessor mails the notice under this Subsection  
192 (8)(h)(i).

193 (ii) If a property owner fails to file a written declaration required by Subsection (8)(d)  
194 after receiving the notice described in Subsection (8)(h)(i), the property owner no longer  
195 qualifies to receive the residential exemption authorized under Section 59-2-103 in the calendar  
196 year for the property that is the subject of the written declaration.

197 (iii) A property owner that is disqualified to receive the residential exemption under  
198 Subsection (8)(h)(ii) may file an application described in Subsection (1) to determine whether  
199 the owner is eligible to receive the residential exemption.

200 (i) The requirements of this Subsection (8) do not apply to a county assessor in a  
201 county that has, for the five calendar years prior to 2019, had in place and enforced an  
202 ordinance described in Subsection (1).

203 Section 2. Section **59-2-307** is amended to read:

204 **59-2-307. Refusal by taxpayer to file signed statement -- Penalty -- Assessor to**  
205 **estimate value -- Reporting information to other counties.**

206 (1) (a) Each person who fails to file the signed statement required by Section 59-2-306,  
207 fails to file the signed statement with respect to name and place of residence, or fails to appear  
208 and testify when requested by the assessor, shall pay a penalty equal to 10% of the estimated  
209 tax due, but not less than \$25 for each failure to file a signed and completed statement.

210 (b) Each penalty under Subsection (1)(a) shall be collected in the manner provided by  
211 Sections 59-2-1302 and 59-2-1303, except as otherwise provided for in this section, or by a  
212 judicial proceeding brought in the name of the assessor.

213 (c) All money recovered by any assessor under this section shall be paid into the county  
214 treasury.

215 ~~[(2) (a) The penalty imposed by Subsection (1)(a) may not be waived or reduced by the~~  
216 ~~assessor, county, county Board of Equalization, or commission except pursuant to a procedure~~  
217 ~~for the review and approval of reductions and waivers adopted by county ordinance, or by~~  
218 ~~administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative~~

219 ~~Rulemaking Act.]~~

220 (2) (a) Upon a showing of reasonable cause, a county may waive or reduce a penalty  
221 imposed under Subsection (1)(a).

222 (b) (i) Except as provided in Subsection (2)(b)(ii), a penalty under Subsection (1)(a)  
223 may be imposed on or after May 16 of the year the statement described in Section 59-2-306 is  
224 requested by the county assessor.

225 (ii) A penalty under Subsection (1)(a) may not be imposed until 30 days after the  
226 postmark date of mailing of a subsequent notice if the signed statement described in Section  
227 59-2-306 is requested:

228 (A) on or after March 16; or

229 (B) by a county assessor of a county of the first class.

230 (3) (a) If an owner neglects or refuses to file a signed statement requested by an  
231 assessor as required under Section 59-2-306:

232 (i) the assessor shall:

233 (A) make a record of the failure to file; and

234 (B) make an estimate of the value of the property of the owner based on known facts  
235 and circumstances; and

236 (ii) the assessor of a county of the first class:

237 (A) shall make a subsequent request by mail for the signed statement, informing the  
238 owner of the consequences of not filing a signed statement; and

239 (B) may impose a fee for the actual and necessary expenses of the mailing under  
240 Subsection (3)(a)(ii)(A).

241 (b) The value fixed by the assessor in accordance with Subsection (3)(a)(i) may not be  
242 reduced by the county board of equalization or by the commission.

243 (4) If the signed statement discloses property in any other county, the assessor shall file  
244 the signed statement and send a copy to the assessor of each county in which the property is  
245 located.

246 **Section 3. Retrospective operation.**

247 The actions affecting Section 59-2-103.5 have retrospective operation to January 1,  
248 2021.