

## Part 17

### Urban Farming Assessment Act

#### 59-2-1701 Title.

This part is known as the "Urban Farming Assessment Act."

Enacted by Chapter 197, 2012 General Session

#### 59-2-1702 Definitions.

As used in this part:

- (1) "Actively devoted to urban farming" means that:
  - (a) land is devoted to active urban farming activities;
  - (b) the land produces greater than 50% of the average agricultural production per acre:
    - (i) as determined under Section 59-2-1703; and
    - (ii) for the given type of land and the given county or area.
- (2) "Rollback tax" means the tax imposed under Section 59-2-1705.
- (3)
  - (a) Subject to Subsection (3)(b), "urban farming" means cultivating food:
    - (i) with a reasonable expectation of profit from the sale of the food; and
    - (ii) from irrigated land located in a county:
      - (A) of the first class, as defined in Section 17-50-501; or
      - (B) of the second class, as defined in Section 17-50-501, if the county is at least 98% urban, as determined by the United States Census Bureau.
  - (b) "Urban farming" does not include:
    - (i) cultivating food derived from an animal; or
    - (ii) grazing.
- (4) "Withdrawn from this part" means that land that has been assessed under this part is no longer assessed under this part or eligible for assessment under this part for any reason including that:
  - (a) an owner voluntarily requests that the land be withdrawn from this part;
  - (b) the land is no longer actively devoted to urban farming;
  - (c)
    - (i) the land has a change in ownership; and
    - (ii)
      - (A) the new owner fails to apply for assessment under this part as required by Section 59-2-1707; or
      - (B) an owner applies for assessment under this part, as required by Section 59-2-1707, but the land does not meet the requirements of this part to be assessed under this part;
  - (d)
    - (i) the legal description of the land changes; and
    - (ii)
      - (A) an owner fails to apply for assessment under this part, as required by Section 59-2-1707; or
      - (B) an owner applies for assessment under this part, as required by Section 59-2-1707, but the land does not meet the requirements of this part to be assessed under this part;
  - (e) the owner of the land fails to file an application as provided in Section 59-2-1707; or
  - (f) except as provided in Section 59-2-1703, the land fails to meet a requirement of Section 59-2-1703.

Amended by Chapter 413, 2014 General Session

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

- (1)
  - (a) For general property tax purposes, land may be assessed on the basis of the value that the land has for agricultural use if the land:
    - (i) is actively devoted to urban farming;
    - (ii) is at least two contiguous acres, but less than five acres, in size; and
    - (iii) has been actively devoted to urban farming for at least two successive years immediately preceding the tax year for which the land is assessed under this part.
  - (b) Land that is not actively devoted to urban farming may not be assessed as provided in Subsection (1)(a), even if the land is part of a parcel that includes land actively devoted to urban farming.
- (2)
  - (a) In determining whether land is actively devoted to urban farming, production per acre for a given county or area and a given type of land shall be determined by using the first applicable of the following:
    - (i) production levels reported in the current publication of Utah Agricultural Statistics;
    - (ii) current crop budgets developed and published by Utah State University; or
    - (iii) the highest per acre value used for land assessed under the Farmland Assessment Act for the county in which the property is located.
  - (b) A county assessor may not assess land actively devoted to urban farming on the basis of the value that the land has for agricultural use under this part unless an owner annually files documentation with the county assessor:
    - (i) on a form provided by the county assessor;
    - (ii) demonstrating to the satisfaction of the county assessor that the land meets the production levels required under this part; and
    - (iii) except as provided in Subsection 59-2-1707(2)(c)(i), no later than January 30 for each tax year in which the owner applies for assessment under this part.
- (3) Notwithstanding Subsection (1)(a)(ii), a county board of equalization may grant a waiver of the acreage requirements of Subsection (1)(a)(ii):
  - (a) on appeal by an owner; and
  - (b) if the owner submits documentation to the county assessor demonstrating to the satisfaction of the county assessor that:
    - (i) the failure to meet the acreage requirements of Subsection (1)(a)(ii) arose solely as a result of an acquisition by a governmental entity by:
      - (A) eminent domain; or
      - (B) the threat or imminence of an eminent domain proceeding;
    - (ii) the land is actively devoted to urban farming; and
    - (iii) no change occurs in the ownership of the land.

Amended by Chapter 413, 2014 General Session

**59-2-1704 Indicia of value for urban farming assessment -- Inclusion of fair market value on certain property tax notices.**

- (1) The county assessor shall consider only those indicia of value that the land has for agricultural use as determined by the commission when assessing land:

- (a) that meets the requirements of Section 59-2-1703 to be assessed under this part; and
- (b) for which the owner has:
  - (i) made a timely application in accordance with Section 59-2-1707 for assessment under this part for the tax year for which the land is being assessed; and
  - (ii) obtained approval of the application described in Subsection (1)(b)(i) from the county assessor.
- (2) In addition to the value determined in accordance with Subsection (1), the fair market value assessment shall be included on the notices described in:
  - (a) Section 59-2-919.1; and
  - (b) Section 59-2-1317.
- (3) The county board of equalization shall review the agricultural use value and fair market value assessments each year as provided under Section 59-2-1001.

Enacted by Chapter 197, 2012 General Session

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

- (1) Except as provided in this section or Section 59-2-1710, land that is withdrawn from this part is subject to a rollback tax imposed as provided in this section.
- (2)
  - (a) An owner shall notify the county assessor that land is withdrawn from this part within 120 days after the day on which the land is withdrawn from this part.
  - (b) An owner who fails to notify the county assessor under Subsection (2)(a) that land is withdrawn from this part is subject to a penalty equal to the greater of:
    - (i) \$10; or
    - (ii) 2% of the rollback tax due for the last year of the rollback period.
- (3)
  - (a) The county assessor shall determine the amount of the rollback tax by computing the difference for the rollback period described in Subsection (3)(b) between:
    - (i) the tax paid while the land was assessed under this part; and
    - (ii) the tax that would have been paid had the property not been assessed under this part.
  - (b) For purposes of this section, the rollback period is a time period that:
    - (i) begins on the later of:
      - (A) the date the land is first assessed under this part; or
      - (B) five years preceding the day on which the county assessor mails the notice required by Subsection (5); and
    - (ii) ends the day on which the county assessor mails the notice required by Subsection (5).
- (4)
  - (a) The county treasurer shall:
    - (i) collect the rollback tax; and
    - (ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien on the property has been satisfied by:
      - (A) preparing a document that certifies that the rollback tax lien on the property has been satisfied; and
      - (B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder for recording.
  - (b) The rollback tax collected under this section shall:
    - (i) be paid into the county treasury; and

- (ii) be paid by the county treasurer to the various taxing entities pro rata in accordance with the property tax levies for the current year.
- (5)
  - (a) The county assessor shall mail to an owner of the land that is subject to a rollback tax a notice that:
    - (i) the land is withdrawn from this part;
    - (ii) the land is subject to a rollback tax under this section; and
    - (iii) the rollback tax is delinquent if the owner of the land does not pay the tax within 30 days after the day on which the county assessor mails the notice.
  - (b)
    - (i) The rollback tax is due and payable on the day the county assessor mails the notice required by Subsection (5)(a).
    - (ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that is withdrawn from this part does not pay the rollback tax within 30 days after the day on which the county assessor mails the notice required by Subsection (5)(a).
- (6)
  - (a) Subject to Subsection (6)(b), the rollback tax and interest imposed under Subsection (7) are a lien on the land assessed under this part.
  - (b) The lien described in Subsection (6)(a) shall:
    - (i) arise upon the imposition of the rollback tax under this section;
    - (ii) end on the day on which the rollback tax and interest imposed under Subsection (7) are paid in full; and
    - (iii) relate back to the first day of the rollback period described in Subsection (3)(b).
- (7)
  - (a) A delinquent rollback tax under this section shall accrue interest:
    - (i) from the date of delinquency until paid; and
    - (ii) at the interest rate established under Section 59-2-1331 and in effect on January 1 of the year in which the delinquency occurs.
  - (b) A rollback tax that is delinquent on September 1 of any year shall be included on the notice required by Section 59-2-1317, along with interest calculated on that delinquent amount through November 30 of the year in which the county treasurer provides the notice under Section 59-2-1317.
- (8)
  - (a) Land that becomes ineligible for assessment under this part only as a result of an amendment to this part is not subject to the rollback tax if the owner of the land notifies the county assessor that the land is withdrawn from this part in accordance with Subsection (2).
  - (b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of an event other than an amendment to this part, whether voluntary or involuntary, is subject to the rollback tax.
- (9) Except as provided in Section 59-2-1710, land that becomes exempt from taxation under Utah Constitution, Article XIII, Section 3, is not subject to the rollback tax if the land meets the requirements of Section 59-2-1703 to be assessed under this part.
- (10)
  - (a) Subject to Subsection (10)(b), an owner of land may appeal to the county board of equalization:
    - (i) a decision by a county assessor to withdraw land from assessment under this part; or
    - (ii) the imposition of a rollback tax under this section.

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

Amended by Chapter 279, 2014 General Session

Amended by Chapter 413, 2014 General Session

**59-2-1706 Land included as urban farming.**

- (1)
  - (a) Land under a structure used in or related to urban farming, including a barn, shed, silo, crib, or greenhouse, or under a facility used in or related to urban farming, including a lake, dam, pond, stream, or irrigation ditch, is included in determining the total area of land actively devoted to urban farming.
  - (b) The land described in Subsection (1)(a) shall be included in determining if the land meets the urban farming production requirements of Subsection 59-2-1703(2)(a).
- (2)
  - (a) Except as provided in this part, land under a residence and land used in connection with residential use may not be included in determining the total area of land actively devoted to urban farming.
  - (b) Land described in Subsection (2)(a) shall be valued, assessed, and taxed in accordance with this chapter other than this part.

Enacted by Chapter 197, 2012 General Session

**59-2-1707 Application -- Signed statement -- Consent to creation of a lien -- Consent to audit and review -- Notice.**

- (1) For land to be assessed under this part, an owner of land eligible for assessment under this part shall annually submit an application to the county assessor of the county in which the land is located.
- (2) An application required by Subsection (1) shall:
  - (a) be on a form:
    - (i) approved by the commission; and
    - (ii) provided to an owner:
      - (A) by the county assessor; and
      - (B) at the request of an owner;
  - (b) provide for the reporting of information related to this part;
  - (c) be submitted by:
    - (i) May 1 of the tax year in which assessment under Subsection (1) is requested if the land was not assessed under this part in the year before the application is submitted; or
    - (ii) the date otherwise required by this part for land that before the application being submitted has been assessed under this part;
  - (d) be signed by all of the owners of the land that under the application would be assessed under this part;
  - (e) be accompanied by the prescribed fees made payable to the county recorder;
  - (f) include a certification by an owner that the facts set forth in the application or signed statement are true;
  - (g) include a statement that the application constitutes consent by the owners of the land to the creation of a lien upon the land as provided in this part; and
  - (h) be recorded by the county recorder.

- (3) The application required by Subsection (2) constitutes consent by the owners of the land to the creation of a lien upon the land as provided in this part.
- (4)
  - (a) Except as provided in Subsections (1) and (2), a county assessor may not require an additional signed statement or application for assessment under this part.
  - (b) Notwithstanding Subsection (4)(a), a county shall require that an owner provide notice if land is withdrawn from this part as provided in Section 59-2-1705.
- (5) A certification under Subsection (2)(f) is considered as if made under oath and subject to the same penalties as provided by law for perjury.
- (6)
  - (a) An owner applying for participation under this part or a purchaser or lessee who signs a statement under Subsection (7) is considered to have given consent to a field audit and review by:
    - (i) the commission;
    - (ii) the county assessor; or
    - (iii) the commission and the county assessor.
  - (b) The consent described in Subsection (6)(a) is a condition to the acceptance of an application or signed statement.
- (7) An owner of land eligible for assessment under this part, because a purchaser or lessee actively devotes the land to agricultural use as required by Section 59-2-1703, may qualify the land for assessment under this part by submitting, with the application required under Subsection (2), a signed statement from that purchaser or lessee certifying those facts that would be necessary to meet the requirements of Section 59-2-1703 for assessment under this part.

Enacted by Chapter 197, 2012 General Session

**59-2-1708 Change of ownership or legal description.**

- (1) Subject to the other provisions of this section, land assessed under this part may continue to be assessed under this part if the land continues to comply with the requirements of this part, regardless of whether the land continues to have the same owner or legal description.
- (2) Notwithstanding Subsection (1), land described in Subsection (1) is subject to the rollback tax as provided in Section 59-2-1705 if the land is withdrawn from this part.
- (3) Notwithstanding Subsection (1), land is withdrawn from this part if:
  - (a) there is a change in:
    - (i) the ownership of the land; or
    - (ii) the legal description of the land; and
  - (b) after a change described in Subsection (3)(a):
    - (i) the land does not meet the requirements of Section 59-2-1703; or
    - (ii) an owner of the land fails to submit a new application for assessment as provided in Section 59-2-1707.
- (4) An application required by this section shall be submitted within 120 days after the day on which there is a change described in Subsection (3)(a).

Enacted by Chapter 197, 2012 General Session

**59-2-1709 Separation of land.**

Separation of a part of the land that is being valued, assessed, and taxed under this part, either by conveyance or other action of the owner of the land, for a use other than urban farming, subjects the land that is separated to liability for the applicable rollback tax, but does not impair the continuance of urban farming valuation, assessment, and taxation for the remaining land if the remaining land continues to meet the requirements of this part.

Enacted by Chapter 197, 2012 General Session

**59-2-1710 Acquisition of land by governmental entity -- Requirements -- Rollback tax -- One-time in lieu fee payment -- Passage of title.**

(1) For purposes of this section, "governmental entity" means:

- (a) the United States;
- (b) the state;
- (c) a political subdivision of the state, including a county, city, town, school district, local district, or special service district; or
- (d) an entity created by the state or the United States, including an agency, board, bureau, commission, committee, department, division, institution, instrumentality, or office.

(2)

- (a) Except as provided in Subsections (3) and (4), land acquired by a governmental entity is subject to the rollback tax imposed by this part if:
  - (i) before the governmental entity acquires the land, the land is assessed under this part; and
  - (ii) after the governmental entity acquires the land, the land does not meet the requirements of Section 59-2-1703 for assessment under this part.
- (b) A person dedicating a public right-of-way to a governmental entity shall pay the rollback tax imposed by this part if:
  - (i) a portion of the public right-of-way is located within a subdivision as defined in Section 10-9a-103; or
  - (ii) in exchange for the dedication, the person dedicating the public right-of-way receives money or other consideration.

(3)

- (a) Land acquired by a governmental entity is not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee payment as provided in Subsection (3)(b), if:
  - (i) the governmental entity acquires the land by eminent domain;
  - (ii)
    - (A) the land is under the threat or imminence of eminent domain proceedings; and
    - (B) the governmental entity provides written notice of the proceedings to the owner; or
  - (iii) the land is donated to the governmental entity.

(b)

- (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the governmental entity shall make a one-time in lieu fee payment:
  - (A) to the county treasurer of the county in which the land is located; and
  - (B) in an amount equal to the amount of rollback tax calculated under Section 59-2-1705.
- (ii) A governmental entity that acquires land under Subsection (3)(a)(i) or (ii) shall make a one-time in lieu fee payment to the county treasurer of the county in which the land is located:
  - (A) if the land remaining after the acquisition by the governmental entity meets the requirements of Section 59-2-1703, in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired by the governmental entity; or

- (B) if the land remaining after the acquisition by the governmental entity is less than two acres, in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired by the governmental entity and the land remaining after the acquisition by the governmental entity.
- (c) A county receiving an in lieu fee payment under Subsection (3)(b) shall distribute the revenues collected from the payment:
  - (i) to the taxing entities in which the land is located; and
  - (ii) in the same proportion as the revenue from real property taxes is distributed.
- (4) If a governmental entity acquires land subject to assessment under this part, title to the land may not pass to the governmental entity until any tax, one-time in lieu fee payment, and applicable interest due under this part are paid to the county treasurer.

Enacted by Chapter 197, 2012 General Session

**59-2-1711 Tax list and duplicate.**

The factual details to be shown on the assessor's tax list and duplicate with respect to land that is being valued, assessed, and taxed under this part are the same as those set forth by the assessor with respect to other taxable property in the county.

Enacted by Chapter 197, 2012 General Session

**59-2-1712 Rules prescribed by commission.**

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules and prescribe forms as necessary to administer this part.

Enacted by Chapter 197, 2012 General Session