

RESIDENTIAL PROPERTY TAX EXEMPTION

- SECONDARY RESIDENCES

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Ed P. Mayne

This act modifies the Property Tax Act to provide for an exemption from taxation of a portion of the fair market value of a secondary residence. This act defines "secondary residence" and includes in the definition a limit that the secondary residence may not be connected to a sewer or water system operated by certain local entities or be rented to another person during a calendar year. The act requires an owner of a secondary residence to comply with certain requirements to receive the property tax exemption, and makes technical changes.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

59-2-102, as last amended by Chapter 61, Laws of Utah 2000

59-2-103, as last amended by Chapter 275, Laws of Utah 1995

ENACTS:

59-2-1115, Utah Code Annotated 1953

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

Section 1. Section **59-2-102** is amended to read:

59-2-102. Definitions.

As used in this chapter and title:

(1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.

(2) "Air charter service" means an air carrier operation which requires the customer to hire

28 an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

29 (3) "Air contract service" means an air carrier operation available only to customers who
30 engage the services of the carrier through a contractual agreement and excess capacity on any trip
31 and is not available to the public at large.

32 (4) "Aircraft" is as defined in Section 72-10-102.

33 (5) "Airline" means any air carrier operating interstate routes on a scheduled basis which
34 offers to fly passengers or cargo on the basis of available capacity on regularly scheduled routes.

35 (6) "Assessment roll" means a permanent record of the assessment of property as assessed
36 by the county assessor and the commission and may be maintained manually or as a computerized
37 file as a consolidated record or as multiple records by type, classification, or categories.

38 (7) "Certified revenue levy" means a property tax levy that provides the same amount of
39 ad valorem property tax revenue as was collected for the prior year, plus new growth, but exclusive
40 of revenue from collections from redemptions, interest, and penalties.

41 (8) "County-assessed commercial vehicle" means:

42 (a) any commercial vehicle, trailer, or semitrailer which is not apportioned under Section
43 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in
44 furtherance of the owner's commercial enterprise;

45 (b) any passenger vehicle owned by a business and used by its employees for
46 transportation as a company car or vanpool vehicle; and

47 (c) vehicles which are:

48 (i) especially constructed for towing or wrecking, and which are not otherwise used to
49 transport goods, merchandise, or people for compensation;

50 (ii) used or licensed as taxicabs or limousines;

51 (iii) used as rental passenger cars, travel trailers, or motor homes;

52 (iv) used or licensed in this state for use as ambulances or hearses;

53 (v) especially designed and used for garbage and rubbish collection; or

54 (vi) used exclusively to transport students or their instructors to or from any private,
55 public, or religious school or school activities.

56 (9) (a) Except as provided in Subsection (9)(b), for purposes of Section 59-2-801,
57 "designated tax area" means a tax area created by the overlapping boundaries of only the following
58 taxing entities:

59 (i) a county; and

60 (ii) a school district.

61 (b) Notwithstanding Subsection (9)(a), "designated tax area" includes a tax area created
62 by the overlapping boundaries of:

63 (i) the taxing entities described in Subsection (9)(a); and

64 (ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a) and
65 the boundaries of the city or town are identical; or

66 (B) a special service district if the boundaries of the school district under Subsection (9)(a)
67 are located entirely within the special service district.

68 (10) "Eligible judgment" means a judgment or final order under Section 59-2-1328 or
69 Section 59-2-1330:

70 (a) that became a final and unappealable judgment or order no more than 14 months prior
71 to the day on which the notice required by Subsection 59-2-919(4) is required to be mailed; and

72 (b) for which a taxing entity's share of the judgment or order is greater than or equal to the
73 lesser of:

74 (i) \$1,000; or

75 (ii) 1% of the total ad valorem property taxes collected by the taxing entity in the previous
76 fiscal year.

77 (11) (a) "Escaped property" means any property, whether personal, land, or any
78 improvements to the property, subject to taxation and is:

79 (i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed
80 to the wrong taxpayer by the assessing authority;

81 (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to
82 comply with the reporting requirements of this chapter; or

83 (iii) undervalued because of errors made by the assessing authority based upon incomplete
84 or erroneous information furnished by the taxpayer.

85 (b) Property which is undervalued because of the use of a different valuation methodology
86 or because of a different application of the same valuation methodology is not "escaped property."

87 (12) "Fair market value" means the amount at which property would change hands
88 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and
89 both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair market

90 value" shall be determined using the current zoning laws applicable to the property in question,
91 except in cases where there is a reasonable probability of a change in the zoning laws affecting that
92 property in the tax year in question and the change would have an appreciable influence upon the
93 value.

94 (13) "Farm machinery and equipment," for purposes of the exemption provided under
95 Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed
96 handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage
97 tools, scales, combines, spreaders, sprayers, haying equipment, and any other machinery or
98 equipment used primarily for agricultural purposes; but does not include vehicles required to be
99 registered with the Motor Vehicle Division or vehicles or other equipment used for business
100 purposes other than farming.

101 (14) "Geothermal fluid" means water in any form at temperatures greater than 120 degrees
102 centigrade naturally present in a geothermal system.

103 (15) "Geothermal resource" means:

104 (a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

105 (b) the energy, in whatever form, including pressure, present in, resulting from, created by,
106 or which may be extracted from that natural heat, directly or through a material medium.

107 (16) "Improvements" includes all buildings, structures, fixtures, fences, and improvements
108 erected upon or affixed to the land, whether the title has been acquired to the land or not.

109 (17) "Intangible property":

110 (a) means property that is capable of private ownership separate from tangible property;

111 and

112 (b) includes:

113 (i) moneys;

114 (ii) credits;

115 (iii) bonds;

116 (iv) stocks;

117 (v) representative property;

118 (vi) franchises;

119 (vii) licenses;

120 (viii) trade names;

- 121 (ix) copyrights; and
122 (x) patents.
- 123 (18) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.
- 124 (19) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable
125 mineral.
- 126 (20) "Mining" means the process of producing, extracting, leaching, evaporating, or
127 otherwise removing a mineral from a mine.
- 128 (21) (a) "Mobile flight equipment" means tangible personal property that is:
- 129 (i) owned or operated by an:
- 130 (A) air charter service;
131 (B) air contract service; or
132 (C) airline; and
- 133 (ii) (A) capable of flight;
134 (B) attached to an aircraft that is capable of flight; or
135 (C) contained in an aircraft that is capable of flight if the tangible personal property is
136 intended to be used:
- 137 (I) during multiple flights;
138 (II) during a takeoff, flight, or landing; and
139 (III) as a service provided by an air charter service, air contract service, or airline.
- 140 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine
141 that is rotated:
- 142 (A) at regular intervals; and
143 (B) with an engine that is attached to the aircraft.
- 144 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
145 commission may make rules defining the term "regular intervals."
- 146 (22) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand,
147 rock, gravel, and all carboniferous materials.
- 148 (23) "Personal property" includes:
- 149 (a) ~~every~~ each class of property as defined in Subsection ~~[(24)]~~ (25) which is the subject
150 of ownership and not included within the meaning of the terms "real estate" and "improvements";
151 (b) gas and water mains and pipes laid in roads, streets, or alleys;

152 (c) bridges and ferries; and
 153 (d) livestock which, for the purposes of the exemption provided under Section 59-2-1112,
 154 means all domestic animals, honeybees, poultry, fur-bearing animals, and fish.

155 (24) (a) "Primary residence" means property used:

- 156 (i) for residential purposes; and
- 157 (ii) as a domicile.

158 (b) "Primary residence" does not include:

- 159 (i) property used as a transient residence; or
- 160 (ii) a condominium used in a rental pool.

161 [~~24~~] (25) (a) "Property" means property that is subject to assessment and taxation
 162 according to its value.

163 (b) "Property" does not include intangible property as defined in this section.

164 [~~25~~] (26) "Public utility," for purposes of this chapter, means the operating property of
 165 a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline
 166 company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation
 167 where the company performs the service for, or delivers the commodity to, the public generally
 168 or companies serving the public generally, or in the case of a gas corporation or an electrical
 169 corporation, where the gas or electricity is sold or furnished to any member or consumers within
 170 the state for domestic, commercial, or industrial use. Public utility also means the operating
 171 property of any entity or person defined under Section 54-2-1 except water corporations.

172 [~~26~~] (27) "Real estate or property" includes:

- 173 (a) the possession of, claim to, ownership of, or right to the possession of land;
- 174 (b) all mines, minerals, and quarries in and under the land, all timber belonging to
- 175 individuals or corporations growing or being on the lands of this state or the United States, and all
- 176 rights and privileges appertaining to these; and
- 177 (c) improvements.

178 [~~27~~] (28) "Residential property," for the purposes of the reductions and adjustments
 179 under this chapter, means [any property used for residential purposes as]:

180 (a) a primary residence[. It does not include property used for transient residential use or
 181 condominiums used in rental pools.]; or

182 (b) a secondary residence.

183 [~~28~~] (29) For purposes of Subsection 59-2-801(1)(e), "route miles" means the number
184 of miles calculated by the commission that is:

- 185 (a) measured in a straight line by the commission; and
186 (b) equal to the distance between a geographical location that begins or ends:
187 (i) at a boundary of the state; and
188 (ii) where an aircraft:
189 (A) takes off; or
190 (B) lands.

191 (30) (a) "Secondary residence" means property that:

- 192 (i) is used for residential purposes;
193 (ii) is not a primary residence;
194 (iii) is not connected to a sewer system or water system that is operated by:
195 (A) a county;
196 (B) a city;
197 (C) a town;
198 (D) a special district created under Title 17A, Special Districts;
199 (E) a local district created under Title 17B, Chapter 2, Local Districts; or
200 (F) an interlocal cooperation entity created under Title 11, Chapter 13, Interlocal
201 Cooperation Act; and
202 (iv) an owner does not rent to another person during the calendar year.

203 (b) "Secondary residence" does not include:

- 204 (i) a condominium used in a rental pool; or
205 (ii) property:
206 (A) owned by a for-profit business entity; or
207 (B) owned by more than two persons, unless the persons are related as described in Section
208 267(c)(4), Internal Revenue Code.

209 [~~29~~] (31) (a) "State-assessed commercial vehicle" means:

- 210 (i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate to
211 transport passengers, freight, merchandise, or other property for hire; or
212 (ii) any commercial vehicle, trailer, or semitrailer which operates interstate and transports
213 the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

214 (b) "State-assessed commercial vehicle" does not include vehicles used for hire which are
215 specified in Subsection (8)(c) as county-assessed commercial vehicles.

216 [~~(30)~~] (32) "Taxable value" means fair market value less any applicable reduction allowed
217 for residential property under Section 59-2-103.

218 [~~(31)~~] (33) "Tax area" means a geographic area created by the overlapping boundaries of
219 one or more taxing entities.

220 [~~(32)~~] (34) "Taxing entity" means any county, city, town, school district, special taxing
221 district, or any other political subdivision of the state with the authority to levy a tax on property.

222 [~~(33)~~] (35) "Tax roll" means a permanent record of the taxes charged on property, as
223 extended on the assessment roll and may be maintained on the same record or records as the
224 assessment roll or may be maintained on a separate record properly indexed to the assessment roll.
225 It includes tax books, tax lists, and other similar materials.

226 Section 2. Section **59-2-103** is amended to read:

227 **59-2-103. Rate of assessment of property -- Residential property.**

228 (1) All tangible taxable property shall be assessed and taxed at a uniform and equal rate
229 on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.

230 (2) [~~Beginning January 1, 1995, the~~] The fair market value of residential property [~~shall~~
231 ~~be reduced by 45%, representing a residential exemption allowed under Utah Constitution Article~~
232 ~~XIII, Section 2, Utah Constitution.~~] is subject to the following residential exemptions:

233 (a) beginning on January 1, 1995, 45% of the fair market value of a primary residence is
234 exempt; and

235 (b) beginning on January 1, 2002, 25% of the first \$100,000 of the fair market value of a
236 secondary residence is exempt as provided in Section 59-2-1115.

237 (3) Notwithstanding Subsection (2), a person may only claim a residential exemption for
238 one:

239 (a) primary residence in the state; and

240 (b) secondary residence in the state.

241 [~~(3)~~] (4) No more than one acre of land per residential unit may qualify for the residential
242 exemption.

243 Section 3. Section **59-2-1115** is enacted to read:

244 **59-2-1115. Exemption for secondary residence -- Signed statement.**

245 (1) An owner of a secondary residence may apply to claim a residential exemption
246 provided for in Section 59-2-103 for the secondary residence by filing a signed statement with the
247 county assessor:

248 (a) of the county in which the secondary residence is located;

249 (b) (i) subject to Subsection (3), in any year before the year in which the owner claims the
250 residential exemption for the secondary residence; or

251 (ii) subject to Subsection (3), in the year in which the owner claims a residential exemption
252 for the secondary residence if the owner files the signed statement on or before April 1; and

253 (c) certifying that:

254 (i) the property is a secondary residence;

255 (ii) the owner is not claiming a residential exemption for any other secondary residence
256 in the state; and

257 (iii) the owner shall notify the county assessor in writing within 30 days after the day on
258 which:

259 (A) there is a change of ownership of the property;

260 (B) the property does not meet the definition of a secondary residence under Section
261 59-2-102; or

262 (C) the owner applies to claim a residential exemption for another secondary residence in
263 the state.

264 (2) A county assessor shall allow an owner a residential exemption for a secondary
265 residence if the county assessor determines that the owner meets the requirements of Subsection
266 (1).

267 (3) If a county assessor determines that an owner of a secondary residence qualifies for a
268 residential exemption under this section for the time period during which the secondary residence
269 qualifies for the residential exemption:

270 (a) the signed statement is valid; and

271 (b) the owner is not required to file another signed statement under Subsection (1).

Legislative Review Note

as of 1-10-01 12:24 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel