

**PROPERTY TAXES - FARMLAND****ASSESSMENT ACT**

2002 GENERAL SESSION

STATE OF UTAH

**Sponsor: Thomas V. Hatch**

**This act modifies the Property Tax Act to amend the Farmland Assessment Act. The act defines terms, clarifies when land qualifies under or is withdrawn from the Farmland Assessment Act, and modifies provisions related to the rollback tax. The act addresses the assessment of land under the Farmland Assessment Act. The act modifies provisions related to conservation easements. The act addresses the process for applying for assessment under the Farmland Assessment Act. The act modifies provisions related to one-time payments in lieu of the rollback tax. The act addresses qualification for assessment under the Farmland Assessment Act if land is located in more than one county. The act makes technical changes. This act takes effect on January 1, 2003.**

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

## AMENDS:

**59-2-502**, as last amended by Chapter 241, Laws of Utah 2001

**59-2-503**, as last amended by Chapter 175, Laws of Utah 2000

**59-2-504**, as repealed and reenacted by Chapter 235, Laws of Utah 1992

**59-2-505**, as renumbered and amended by Chapter 4, Laws of Utah 1987

**59-2-506**, as last amended by Chapter 236, Laws of Utah 1995

**59-2-508**, as last amended by Chapter 86, Laws of Utah 2000

**59-2-509**, as last amended by Chapter 9, Laws of Utah 2001

**59-2-511**, as last amended by Chapter 175, Laws of Utah 2000

**59-2-512**, as renumbered and amended by Chapter 4, Laws of Utah 1987

## ENACTS:

**59-2-506.5**, Utah Code Annotated 1953

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

Section 1. Section **59-2-502** is amended to read:

**59-2-502. Definitions.**

As used in this part:

(1) "Actively devoted to agricultural use" means that the land in agricultural use produces in excess of 50% of the average agricultural production per acre:

(a) as determined under Section 59-2-503; and

(b) for:

(i) the given type of land; and

(ii) the given county or area.

(2) "Conservation easement rollback tax" means the tax imposed under Section 59-2-506.5.

~~[(1)]~~ (3) "Land in agricultural use" means:

(a) land devoted to the raising of useful plants and animals with a reasonable expectation of profit, including:

(i) forages and sod crops;

(ii) grains and feed crops;

(iii) livestock as defined in Section 59-2-102;

(iv) trees and fruits; or

(v) vegetables, nursery, floral, and ornamental stock; or

(b) land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop-land retirement program with an agency of the state or federal government.

~~[(2)]~~ (4) "Platted" means land in which:

(a) parcels of ground are laid out and mapped by their boundaries, course, and extent; and

(b) the plat has been approved as provided in Section 10-9-805 or 17-27-805.

~~[(3)] "Rollback" means the period preceding the withdrawal of the land from the provisions of this part or the change in use of the land, not to exceed five years, during which the land is valued, assessed, and taxed under this part.]~~

(5) "Rollback tax" means the tax imposed under Section 59-2-506.

(6) "Withdrawn from this part" means that land that has been assessed under this part is no

longer assessed 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 agricultural use;

(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 59-2-509; or

(B) (I) an owner applies for assessment under this part as required by Section 59-2-509; and

(II) 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 59-2-509; or

(B) (I) an owner applies for assessment under this part as required by Section 59-2-509; and

(II) the land does not meet the requirements of this part to be assessed under this part;

(e) if required by the county assessor, the owner of the land:

(i) fails to file a new application as provided in Subsection 59-2-508(3); or

(ii) fails to file a signed statement as provided in Subsection 59-2-508(3); or

(f) except as provided in Section 59-2-503, the land fails to meet a requirement of Section 59-2-503.

Section 2. Section **59-2-503** is amended to read:

**59-2-503. Qualifications for agricultural use assessment.**

(1) For general property tax purposes, land may be assessed [~~based~~] on the basis of the value [~~which~~] that the land has for agricultural use if the land:

(a) is not less than five contiguous acres in area, except [~~where~~] that land may be assessed on the basis of the value that the land has for agricultural use:

(i) if:

(A) the land is devoted to agricultural use in conjunction with other eligible acreage in the same county; and

(B) subject to Subsection (6), the land and the other eligible acreage described in Subsection

(1)(a)(i)(A) have identical legal ownership; or

(ii) as provided under Subsection (4); and

(b) except as provided in Subsection (5):

(i) is actively devoted to agricultural use; and

~~[(c)]~~ (ii) has been actively devoted to agricultural use for at least two successive years immediately preceding the tax year [in issue] for which the land is being assessed under this part.

~~[(2) (a) For the purpose of Subsection (1), "actively devoted to agricultural use" means that the land produces in excess of 50% of the average agricultural production per acre for the given type of land and the given county or area. (b) For the purpose of determining production levels]~~

(2) In determining whether land is actively devoted to agricultural use, 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 [established authorities shall be used]:

~~[(i)]~~ (a) production levels reported in the current publication of the Utah Agricultural Statistics;

~~[(ii)]~~ (b) current crop budgets developed and published by Utah State University; and

~~[(iii)]~~ (c) other acceptable standards of agricultural production designated by the commission by rule adopted in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

~~(3) Land may [also] be assessed [based] on [its] the basis of the land's agricultural value if the land [is]:~~

~~(a) is~~ is subject to the privilege tax imposed by Section 59-4-101;

~~(b) is~~ is owned by the state or any of ~~[its] the state's~~ political subdivisions; and

~~(c) meets the requirements of Subsection (1).~~

~~(4) [The] Notwithstanding Subsection (1)(a), the commission or a county board of equalization~~ may grant a waiver of the acreage limitation for land upon:

(a) appeal by the owner; and

(b) submission of proof that:

~~[(a)]~~ (i) 80% or more of the owner's, purchaser's, or lessee's income is derived from agricultural products produced on the property in question; or

~~[(b)-(i)]~~ (ii) (A) the failure to meet the acreage requirement arose solely as a result of an acquisition by a governmental entity by:

(I) eminent domain; or

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

~~[(ii)]~~ (B) the land is actively devoted to agricultural use ~~[as defined in Subsection (2)]~~; and

~~[(iii)]~~ (C) no change occurs in the ownership of the land.

(5) (a) ~~[The]~~ Notwithstanding Subsection (1)(b), the commission or a county board of equalization may grant a waiver of the ~~[agricultural production requirements]~~ requirement that the land is actively devoted to agricultural use for the tax year ~~[in issue]~~ for which the land is being assessed under this part upon:

(i) appeal by the owner; and

(ii) submission of proof that:

~~[(a)]~~ (A) the land was ~~[valued]~~ assessed on the basis of agricultural use for at least two years immediately preceding that tax year; and

~~[(b)]~~ (B) the failure to meet the agricultural production requirements for that tax year was due to no fault or act of the owner, purchaser, or lessee.

~~[(6)]~~ (b) As used in Subsection (5)~~[(b)]~~ (a), "fault" does not include ~~[any of the following]~~:

~~[(a)]~~ (i) intentional planting of crops or trees which, because of the maturation period, do not give the owner, purchaser, or lessee a reasonable opportunity to satisfy the production ~~[level requirement]~~ levels required for land actively devoted to agricultural use; or

~~[(b)]~~ (ii) implementation of a ~~[bona-fide]~~ bona fide range improvement program, crop rotation program, or other similar accepted cultural practices which do not give the owner, purchaser, or lessee a reasonable opportunity to satisfy the production ~~[level requirement]~~ levels required for land actively devoted to agricultural use.

(6) (a) For purposes of Subsection (1)(a)(i)(B), the land and the other eligible acreage described in Subsection (1)(a)(i)(B) are considered to have identical legal ownership regardless of whether the one or more persons that have a beneficial ownership in the land and the other eligible acreage:

- (i) own the land and the other eligible acreage; or
- (ii) are beneficiaries of a trust if the land and the other eligible acreage are held in trust.
- (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

commission may by rule define what constitutes:

- (i) a beneficial interest; and
- (ii) consistent with Subsection (1) and this Subsection (6), identical legal ownership.

Section 3. Section **59-2-504** is amended to read:

**59-2-504. Exclusions from designation as agricultural use -- Exception.**

(1) [Land shall] Except as provided in Subsection (2), land may not be [classified as agricultural land actively devoted to agricultural use] assessed under this part if the land is:

[(1)] (a) part of a platted subdivision or planned unit development, with restrictions prohibiting its use for agricultural purposes with surface improvements in place, whether within or without a city; or

[(2)] (b) platted with surface improvements in place that are not an integral part of agricultural use[; or].

[(3) if] (2) (a) If land has been platted with surface improvements in place, [and if] the land has been [removed] withdrawn from [the farmland assessment rolls] this part, and [if] the owner is not able to transfer title to the platted property, or continue development of the platted property due to economic circumstances, or some other reasonable cause, the owner may petition the county assessor for reinstatement under [the farmland assessment act] this part for assessment purposes as land in agricultural use without vacating the subdivision plat.

(b) The county assessor may grant the petition for reinstatement described in Subsection (2)(a) if the land [meets all other agricultural production requirements under this section] is actively devoted to agricultural use.

[(4)] (3) For purposes of this section, "platted with surface improvements in place" means any of the following surface improvements are in place:

- (a) curb[;];
- (b) gutter[;]; or

(c) pavement.

Section 4. Section **59-2-505** is amended to read:

**59-2-505. Indicia of value for agricultural use assessment -- Inclusion of fair market value on tax notice.**

~~[If valuing]~~ (1) (a) 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 ~~[which qualifies as land actively devoted to agricultural use under the test prescribed by Subsection 59-2-503(1), and];~~

(i) that meets the requirements of Section 59-2-503 to be assessed under this part; and

(ii) for which the owner has:

(A) made a timely application in accordance with Section 59-2-508 for [valuation,] assessment[~~, and taxation~~] under this part for the tax year [in issue, the assessor shall consider only those indicia of value which the land has for agricultural use as determined by the commission. The] for which the land is being assessed; and

(B) obtained approval of the application described in Subsection (1)(a)(ii)(A) from the county assessor.

(b) If land that becomes subject to a conservation easement created in accordance with Title 57, Chapter 18, Land Conservation Easement Act, meets the requirements of Subsection (1)(a) for assessment under this part, the county assessor shall consider only those indicia of value that the land has for agricultural use in accordance with Subsection (1)(a) when assessing the land.

(2) In addition to the value determined in accordance with Subsection (1), the assessor shall [also] include the fair market value assessment on the [tax] notice described in Subsection 59-2-919(4).

(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.

Section 5. Section **59-2-506** is amended to read:

**59-2-506. Rollback tax -- Penalty -- Lien -- Computation of tax -- Procedure -- Collection -- Distribution.**

(1) ~~[(a) If] Except as provided in Section 59-2-506.5 or 59-2-511, if land [which is or has been in agricultural use, and is or has been valued, assessed, and taxed under this part, is applied to a use other than agricultural or is otherwise] is withdrawn from [the provisions of] this part, [it] the land is subject to ~~[an additional]~~ a rollback tax [referred to as the "rollback tax," and the owner shall within 180 days after the change in land use notify the county assessor of the change in land use and pay the rollback tax] imposed in accordance with this section.~~

~~[(b) (i) Notwithstanding Subsection (1)(a), the rollback tax does not apply if:]~~

~~[(A) land was assessed in the previous year based on the value which it had for agricultural use and is converted into a conservation easement, as defined in Title 57, Chapter 18, Land Conservation Easement Act; and]~~

~~[(B) the conversion of the land is considered a qualified conservation contribution for federal purposes under Section 170(h), Internal Revenue Code:]~~

~~[(ii) In order to qualify for the exemption from the rollback tax provided for in (1)(b)(i), the owner of the land shall:]~~

~~[(A) convert the land into a conservation easement in accordance with the requirements of Title 57, Chapter 18, Land Conservation Easement Act; and]~~

~~[(B) within 30 days after the land has been converted into a conservation easement, notify the county assessor of the change. During the period that land is valued under a conservation easement, the county assessor shall carry on the county tax roll the value of the land as valued under the conservation easement and the fair market value of the land.]~~

~~[(iii) (A) Except as provided in Subsection (1)(c), if a conservation easement is terminated in accordance with Section 57-18-5, the owner of the land shall, within 30 days after the conservation easement is terminated, notify the county assessor of the termination and pay the rollback tax as provided for in this part.]~~

~~[(B) Property subject to the rollback tax under Subsection (1)(b)(iii) shall be subject to the penalties, procedures, and requirements of this section.]~~

~~[(c) (i) An owner is not subject to the rollback tax under Subsection (1)(b)(iii) if:]~~

~~[(A) a conservation easement is terminated under Subsection (1)(b)(iii);]~~

~~[(B) the owner applies for valuation of the land as land in agricultural use under Subsection 59-2-508(1) within 30 days from the day on which the conservation easement is terminated under Subsection (1)(b)(iii); and]~~

~~[(C) the application for valuation as land in agricultural use is approved within two years from the day on which the application was filed.]~~

~~[(ii) If the land does not receive approval for valuation as land in agricultural use within two years from the day on which the application was filed, the owner of the land shall, within 30 days from the day on which the two-year period expired, notify the county assessor of the termination of the conservation easement and pay the rollback tax as provided in Subsections (1)(b)(iii)(A) and (B).]~~

(2) (a) ~~[Failure of the]~~ An owner ~~[to]~~ shall notify the county assessor ~~[of a change in land use]~~ that land is withdrawn from this part within 180 days~~[-, and failure to pay rollback taxes imposed by this section after notification by the assessor that rollback taxes are due, subjects the owner to a penalty of 100% of the rollback tax due.]~~ after the day on which the land is withdrawn from this part.

(b) An owner that 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) Upon receipt of the notice, the county assessor shall have the following statement recorded by the county recorder: "On (date) this land became subject to the rollback tax imposed by Section 59-2-506."]~~

~~[(4)]~~ (3) The rollback tax is:

(a) a lien ~~[upon]~~ on the land assessed under this part until paid; and [is]

(b) due and payable ~~[at the time of the change in use]~~ on the day the county assessor mails the notice required by Subsection (6).

~~[(5)]~~ (4) (a) The county assessor shall determine the amount of the rollback tax by computing the difference for the rollback period described in Subsection (4)(b) between:

(i) the tax paid while the land was ~~[valued]~~ assessed under this part; and ~~[that which]~~

(ii) the tax that would have been paid had the property not been [valued] 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 (6); and

(ii) ends the day on which the county assessor mails the notice required by Subsection (6).

(5) (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.

(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.

(6) (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) 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 (6)(a).

~~[(6) (a) The assessment of the rollback tax imposed by Subsection (1), the attachment of the lien for these taxes, and the right of the owner or other interested party to review any judgment of the county board of equalization affecting the rollback tax]~~

(7) The following shall be governed by the procedures provided for the assessment and taxation of real property not [valued,] assessed[, or taxed] under this part[-]:

(a) except as provided in this section, the assessment of the rollback tax imposed by Subsection (1):

(b) the attachment of the lien for the rollback tax; and

(c) the right of an owner or other interested party to review any judgment of the county board of equalization affecting the rollback tax.

~~[(b) The rollback tax collected shall be paid into the county treasury and paid by the treasurer to the various taxing units pro rata in accordance with the levies for the current year.]~~

~~[(7)] (8) (a) Land that becomes ineligible for [farmland] assessment [solely] under this part only as a result of [amendments] an amendment to this part is not subject to the rollback tax. [Any other change in land use or withdrawal of land]~~

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

~~[(8)] (9) [Land which] Except as provided in Section 59-2-511, land that becomes exempt from taxation under Utah Constitution Article XIII, Section 2, is [not considered withdrawn from this part if the land continues to be used for agricultural purposes] not subject to the rollback tax.~~

Section 6. Section **59-2-506.5** is enacted to read:

**59-2-506.5. Conservation easement rollback tax -- One-time in lieu fee payment -- Computation -- Lien -- Procedure -- Collection -- Distribution.**

(1) (a) Notwithstanding Section 59-2-506 and subject to the requirements of this section, land is not subject to the rollback tax under Section 59-2-506, if:

(i) the land becomes subject to a conservation easement created in accordance with Title 57, Chapter 18, Land Conservation Easement Act;

(ii) the creation of the conservation easement described in Subsection (1)(a)(i) is considered to be a qualified conservation contribution for federal purposes under Section 170(h), Internal Revenue Code;

(iii) the land was assessed under this part in the tax year preceding the tax year that the land does not meet the requirements of Section 59-2-503;

(iv) after the creation of the conservation easement described in Subsection (1)(a)(i), the land does not meet the requirements of Section 59-2-503; and

(v) an owner of the land notifies the county assessor as provided in Subsection (1)(b).

(b) An owner of land described in Subsection (1)(a) shall notify the county assessor that the land meets the requirements of Subsection (1)(a) within 30 days after the day on which the land does not meet the requirements of Section 59-2-503.

(2) (a) Except as provided in Subsection (4), if a conservation easement is terminated in accordance with Section 57-18-5:

(i) the land described in Subsection (1) is subject to a conservation easement rollback tax imposed in accordance with this section; or

(ii) if the land described in Subsection (1) is owned by a governmental entity as defined in Section 59-2-511, the land is subject to a one-time in lieu fee payment that is:

(A) in an amount equal to the conservation easement rollback tax imposed in accordance with this section; and

(B) paid, collected, and distributed in the same manner as the conservation easement rollback tax imposed in accordance with this section.

(b) The conservation easement rollback tax is an amount equal to the product of:

(i) the property tax imposed on the land for each year during the time period that is the shorter of:

(A) the time period during which the land is subject to a conservation easement described in Subsection (1); or

(B) five years before the county assessor mails the notice required by Subsection (3)(b); and

(ii) 20.

(c) An owner shall notify the county assessor that a conservation easement on land described in Subsection (1) has been terminated in accordance with Section 57-18-5 within 180 days after the day on which the conservation easement is terminated.

(3) (a) The conservation easement rollback tax under this section is:

(i) a lien on the land described in Subsection (1) until paid; and

(ii) due and payable on the day the county assessor mails the notice required by Subsection

(3)(b).

(b) If land is subject to a conservation easement rollback tax under Subsection (2), the county assessor shall mail to an owner of the land a notice that:

(i) the land is subject to a conservation easement rollback tax under this section; and

(ii) the conservation easement 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.

(c) The conservation easement rollback tax is delinquent if an owner of the land that is subject to the conservation easement rollback tax does not pay the conservation easement rollback tax within 30 days after the day on which the county assessor mails the notice required by Subsection (3)(b).

(d) The conservation easement rollback tax shall be paid, collected, and distributed in a manner consistent with this section and Section 59-2-506.

(4) (a) Notwithstanding Subsection (2), land described in Subsection (2) is not subject to the conservation easement rollback tax or the one-time in lieu fee payment required by Subsection (2) if after the conservation easement is terminated in accordance with Section 57-18-5:

(i) an owner of the land applies for assessment of the land as land in agricultural use under this part within 30 days after the day on which the conservation easement is terminated; and

(ii) the application for assessment of the land described in Subsection (4)(a)(i) is approved within two years after the day on which the application was filed.

(b) Notwithstanding Subsection (4)(a), if the land described in Subsection (4)(a)(i) does not receive approval for assessment as land in agricultural use under this part within two years after the day on which the application was filed under Subsection (4)(a), an owner of the land shall:

(i) within 30 days after the day on which the two-year period expires, notify the county assessor that the two-year period expired; and

(ii) pay the conservation easement rollback tax or the one-time in lieu fee payment required

by Subsection (2) as provided in this section.

(5) Land subject to a conservation easement created in accordance with Title 57, Chapter 18, Land Conservation Easement Act, is not subject to a conservation easement rollback tax or a one-time in lieu fee payment if the land is assessed under this part in accordance with Section 59-2-505.

Section 7. Section **59-2-508** is amended to read:

**59-2-508. Application -- Signed statement -- Consent to audit and review -- Notice.**

(1) ~~[The]~~ If an owner of land eligible for [valuation as land in agricultural use must] assessment under this part wants the land to be assessed under this part, the owner shall submit an application to the county assessor of the county in which the land is located.

(2) ~~[Any]~~ An application [for valuation, assessment, and taxation of land in agricultural use] required by Subsection (1) shall:

(a) be on a form ~~[prescribed];~~

(i) approved by the commission; and

(ii) provided ~~[for the use of the applicants]~~ to an owner:

(A) by the county assessor; and

(B) at the request of an owner;

(b) provide for the reporting of information ~~[pertinent]~~ related to this part;

(c) be ~~[filed prior to March 1]~~ submitted by:

(i) May 1 of the tax year in which ~~[valuation]~~ assessment under ~~[this part]~~ Subsection (1) is requested~~[; however, any application submitted after January 1 is subject to a \$25 late fee;]~~ if the land was not assessed under this part in the year before the application is submitted; or

(ii) by the date otherwise required by this part for land that prior to 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;

~~[(d)]~~ (e) be accompanied by the prescribed fees made payable to the county treasurer; and

~~[(e)]~~ (f) be recorded by the county recorder.

(3) (a) Once the application for ~~[valuation as land in agricultural use]~~ assessment described in Subsection (1) has been approved, the county may ~~[elect to either]:~~

~~[(a)]~~ (i) require the owner to submit a new application or a signed statement ~~[verifying]:~~

(A) by written request of the county assessor; and

(B) that verifies that the land qualifies for [valuation under this part every five years if requested in writing by the county assessor] assessment under this part; or

~~[(b)]~~ (ii) except as provided in Subsection (3)(b), require no additional signed statement or application for ~~[valuation as agricultural land, but require that the assessor be notified when a change in the land use or land ownership occurs]~~ assessment under this part.

(b) Notwithstanding Subsection (3)(a), a county shall require that an owner provide notice if land is withdrawn from this part:

(i) as provided in Section 59-2-506; or

(ii) for land that is subject to a conservation easement created in accordance with Section 59-2-506.5, as provided in Section 59-2-506.5.

(c) An application or signed statement required under Subsection (3)(a) shall be submitted by the date specified in the written request of the county assessor for the application or signed statement.

(4) A certification by ~~[the]~~ an owner that the facts set forth in the application or signed statement are true is considered as if made under oath and subject to the same penalties as provided by law for perjury.

(5) (a) All owners applying for participation under this part and all purchasers or lessees signing statements under Subsection (6) are considered to have given their consent to field audit and review by ~~[both]:~~

(i) the commission ~~[and];~~

(ii) the county assessor~~[-This];~~ or

(iii) the commission and the county assessor.

(b) The consent described in Subsection (5)(a) is a condition to the acceptance of any application or signed statement.

(6) Any owner of ~~[lands]~~ land eligible for ~~[valuation,]~~ assessment~~[, and taxation]~~ under this part ~~[due to the use of that land by, and the agricultural production qualifications of,]~~ because a purchaser or lessee actively devotes the land to agricultural use as required by Section 59-2-503, may qualify ~~[those lands]~~ the land for assessment under this part by submitting~~[, together]~~ with the application required under Subsection (2), a signed statement from that purchaser or lessee certifying those facts ~~[relative to the use of the land and the purchaser's or lessee's agricultural production of the land which]~~ that would be necessary ~~[for qualification of those lands]~~ to meet the requirements of Section 59-2-503 for assessment under this part.

Section 8. Section **59-2-509** is amended to read:

**59-2-509. Change of ownership or legal description.**

~~[Continuance of valuation, assessment, and taxation under this part depends upon continuance of the land in agricultural use and compliance]~~

(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 [other] requirements of this part, [and not upon continuance in] regardless of whether the land continues to have:

(a) the same owner [of title to the land]; or

(b) legal description. [Liability for]

(2) Notwithstanding Subsection (1), land described in Subsection (1) is subject to the rollback tax [attaches when a change in use or other withdrawal of the land occurs, but not when] as provided in Section 59-2-506 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 title takes place, if the new owner both: (1) continues the land in agricultural use under the conditions prescribed in this part; and] 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 59-2-503; or

~~[(2) files]~~ (ii) an owner of the land fails to submit a new application for [valuation,]

assessment~~[, and taxation]~~ as provided in Section 59-2-508.

(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).

Section 9. Section **59-2-511** is amended to read:

**59-2-511. Acquisition of land by governmental entity -- Requirements -- Rollback tax -- One-time in lieu fee payment.**

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

- (a) the United States;
- (b) the state;
- (c) a political subdivision of the state, including:
  - (i) a county;
  - (ii) a city;
  - (iii) a town;
  - (iv) a school district; or
  - (v) a special district; or
- (d) an entity created by the state or the United States, including:
  - (i) an agency;
  - (ii) a board;
  - (iii) a bureau;
  - (iv) a commission;
  - (v) a committee;
  - (vi) a department;
  - (vii) a division;
  - (viii) an institution;
  - (ix) an instrumentality; or
  - (x) an office.

(2) (a) Except as provided in Subsections (3) and (4), ~~[property]~~ land acquired by a governmental entity is subject to the rollback tax imposed by this part if:

(i) prior to the governmental entity acquiring the [property] land, the [property] land is ~~is~~ ~~[(A) valued under this part; (B)]~~ assessed under this part; and

~~[(C) taxed under this part; and]~~

(ii) after the governmental entity acquires the [property] land, the [property is] land does not ~~[actively devoted to agricultural use]~~ meet the requirements of Section 59-2-503.

~~[(b) If property is subject to the rollback tax under Subsection (2)(a):]~~

~~[(i) the owner of record shall pay the rollback tax imposed by this part before title may pass; and]~~

~~[(ii) prior to the governmental entity acquiring the property, the governmental entity shall:]~~

~~[(A) provide notice of the sale to the county assessor of the county in which the property is located; and]~~

~~[(B) receive a clearance from the county assessor of the county in which the property is located stating that:]~~

~~[(I) rollback taxes have been paid; or]~~

~~[(II) the property is not subject to rollback taxes imposed by this part.]~~

~~[(c)]~~ (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 10-9-103; or

(ii) in exchange for the dedication, the person dedicating the public right-of-way receives:

(A) money; or

(B) other consideration.

(3) (a) Except as provided in Subsection (4), [property] 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 [property] land by eminent domain;

(ii) (A) the [property] 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 [of record]; or

(iii) the [property] land is donated to the governmental entity.

(b) (i) If a governmental entity acquires [property] land under Subsection (3)(a)(iii), the governmental entity shall make a one-time in lieu fee payment:

(A) to the county [assessor] treasurer of the county in which the [property] land is located; and

(B) in an amount equal to the amount of rollback tax calculated under Section 59-2-506.

(ii) If a governmental entity acquires [property] land under Subsection (3)(a)(i) or (3)(a)(ii), the governmental entity shall make a one-time in lieu fee payment:

(A) to the county [assessor] treasurer of the county in which the [property] land is located; and

(B) (I) if the land remaining after the acquisition [~~is five acres or more when used in conjunction with other qualifying acreage, then~~] by the governmental entity meets the requirements of Section 59-2-503, in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity; or

(II) if the land remaining after the acquisition by the governmental entity is less than five acres [~~when used in conjunction with other qualifying acreage, then~~], in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity and the [~~remaining, nonqualifying~~] land remaining after the acquisition by the governmental entity.

(iii) For purposes of Subsection (3)(b)(ii), "land remaining after the acquisition by the governmental entity" includes other eligible acreage described in Subsection 59-2-503(1)(a)(i) that is used in conjunction with 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 generated by the payment:

(i) to the taxing entities in which the [property] land is located; and

(ii) in the same proportion as the revenue from real property taxes is distributed.

(4) Except as provided in Section [~~59-2-506~~] 59-2-506.5, if land acquired by a governmental

entity ~~[acquires property and converts the property into]~~ is made subject to a conservation easement ~~[under]~~ in accordance with Section ~~[59-2-506]~~ 59-2-506.5:

- (a) the ~~[property]~~ land is not subject to the rollback tax imposed by this part; and
- (b) the governmental entity acquiring the ~~[property]~~ land is not required to make an in lieu fee payment under Subsection (3)(b).

Section 10. Section **59-2-512** is amended to read:

**59-2-512. Land located in more than one county.**

~~[Where]~~ (1) If contiguous land in agricultural use in one ownership is located in more than one county, compliance with ~~[the requirements of]~~ this part:

- (a) shall be determined on the basis of the total area and ~~[income]~~ production of ~~[that]~~ the contiguous land~~[-];~~ and
- (b) is not determined on the basis of the area or ~~[income]~~ production of land ~~[which]~~ that is located in ~~[any]~~ one particular county.

(2) If land in agricultural use in one ownership is located in more than one county but the land is not contiguous across county lines, compliance with the requirements of this part shall be determined on the basis of the total area and production of the land in each county.

Section 11. **Effective date.**

This act takes effect on January 1, 2003.