

1 **PROPERTY TAX - FARMLAND ASSESSMENT**

2 **ACT**

3 2003 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Thomas V. Hatch**

6 **This act modifies the Farmland Assessment Act to define terms and to modify the**
7 **qualifications for agricultural use assessment. The act modifies information to be**
8 **contained on certain property tax notices. The act changes the time period for an owner**
9 **of land to notify the county assessor if land does not meet certain qualifications for**
10 **agricultural use assessment. The act modifies provisions relating to the imposition and**
11 **collection of the rollback tax, the conservation easement rollback tax, and one-time in lieu**
12 **fee payments. The act modifies provisions relating to the imposition of interest for**
13 **purposes of the rollback tax and the conservation easement rollback tax. The act**
14 **addresses the application requirements for agricultural use assessment. The act**
15 **addresses the creation and termination of a lien on certain property. The act addresses**
16 **when title may pass to a governmental entity acquiring land subject to agricultural use**
17 **assessment. The act makes technical changes. The act takes effect on January 1, 2004.**

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

19 AMENDS:

20 **59-2-502**, as last amended by Chapter 141, Laws of Utah 2002

21 **59-2-503**, as last amended by Chapter 141, Laws of Utah 2002

22 **59-2-504**, as last amended by Chapter 141, Laws of Utah 2002

23 **59-2-505**, as last amended by Chapter 141, Laws of Utah 2002

24 **59-2-506**, as last amended by Chapter 141, Laws of Utah 2002

25 **59-2-506.5**, as enacted by Chapter 141, Laws of Utah 2002

26 **59-2-508**, as last amended by Chapter 141, Laws of Utah 2002

27 **59-2-511**, as last amended by Chapter 141, Laws of Utah 2002



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

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

30 **59-2-502. Definitions.**

31 As used in this part:

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

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

35 (b) for:

36 (i) the given type of land; and

37 (ii) the given county or area.

38 (2) "Conservation easement rollback tax" means the tax imposed under Section
39 59-2-506.5.

40 (3) "Identical legal ownership" means legal ownership held by:

41 (a) identical legal parties; or

42 (b) identical legal entities.

43 [~~3~~] (4) "Land in agricultural use" means:

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

46 (i) forages and sod crops;

47 (ii) grains and feed crops;

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

49 (iv) trees and fruits; or

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

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

54 (5) "Other eligible acreage" means land that is:

55 (a) five or more contiguous acres;

56 (b) eligible for assessment under this part; and

57 (c) (i) located in the same county as land described in Subsection 59-2-503(1)(a); or

58 (ii) contiguous across county lines with land described in Subsection 59-2-503(1)(a) as

59 provided in Section 59-2-512.

60 [~~(4)~~] (6) "Platted" means land in which:

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

62 and

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

64 [~~(5)~~] (7) "Rollback tax" means the tax imposed under Section 59-2-506.

65 [~~(6)~~] (8) "Withdrawn from this part" means that land that has been assessed under this

66 part is no longer assessed under this part or eligible for assessment under this part for any

67 reason including that:

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

69 (b) the land is no longer actively devoted to agricultural use;

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

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

72 Section 59-2-509; or

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

74 and

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

76 (d) (i) the legal description of the land changes; and

77 (ii) (A) an owner fails to apply for assessment under this part as required by Section

78 59-2-509; or

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

80 and

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

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

83 (i) fails to file a new application as provided in Subsection 59-2-508[~~(3)~~](4); or

84 (ii) fails to file a signed statement as provided in Subsection 59-2-508[~~(3)~~](4); or

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

86 Section 59-2-503.

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

88 **59-2-503. Qualifications for agricultural use assessment.**

89 (1) For general property tax purposes, land may be assessed on the basis of the value

90 that the land has for agricultural use if the land:

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

93 (i) if:

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

96 (B) [~~subject to Subsection (6),~~] the land and the other eligible acreage described in
97 Subsection (1)(a)(i)(A) have identical legal ownership; or

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

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

100 (i) is actively devoted to agricultural use; and

101 (ii) has been actively devoted to agricultural use for at least two successive years
102 immediately preceding the tax year for which the land is being assessed under this part.

103 (2) In determining whether land is actively devoted to agricultural use, production per
104 acre for a given county or area and a given type of land shall be determined by using the first
105 applicable of the following:

106 (a) production levels reported in the current publication of the Utah Agricultural
107 Statistics;

108 (b) current crop budgets developed and published by Utah State University; and

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

112 (3) Land may be assessed on the basis of the land's agricultural value if the land:

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

114 (b) is owned by the state or any of the state's political subdivisions; and

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

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

118 (a) appeal by the owner; and

119 (b) submission of proof that:

120 (i) 80% or more of the owner's, purchaser's, or lessee's income is derived from

121 agricultural products produced on the property in question; or
122 (ii) (A) the failure to meet the acreage requirement arose solely as a result of an
123 acquisition by a governmental entity by:
124 (I) eminent domain; or
125 (II) the threat or imminence of an eminent domain proceeding;
126 (B) the land is actively devoted to agricultural use; and
127 (C) no change occurs in the ownership of the land.
128 (5) (a) Notwithstanding Subsection (1)(b), the commission or a county board of
129 equalization may grant a waiver of the requirement that the land is actively devoted to
130 agricultural use for the tax year for which the land is being assessed under this part upon:
131 (i) appeal by the owner; and
132 (ii) submission of proof that:
133 (A) the land was assessed on the basis of agricultural use for at least two years
134 immediately preceding that tax year; and
135 (B) the failure to meet the agricultural production requirements for that tax year was
136 due to no fault or act of the owner, purchaser, or lessee.
137 (b) As used in Subsection (5)(a), "fault" does not include:
138 (i) intentional planting of crops or trees which, because of the maturation period, do
139 not give the owner, purchaser, or lessee a reasonable opportunity to satisfy the production
140 levels required for land actively devoted to agricultural use; or
141 (ii) implementation of a bona fide range improvement program, crop rotation program,
142 or other similar accepted cultural practices which do not give the owner, purchaser, or lessee a
143 reasonable opportunity to satisfy the production levels required for land actively devoted to
144 agricultural use.
145 ~~[(6) (a) For purposes of Subsection (1)(a)(i)(B), the land and the other eligible acreage~~
146 ~~described in Subsection (1)(a)(i)(B) are considered to have identical legal ownership regardless~~
147 ~~of whether the one or more persons that have a beneficial ownership in the land and the other~~
148 ~~eligible acreage:]~~
149 ~~[(i) own the land and the other eligible acreage; or]~~
150 ~~[(ii) are beneficiaries of a trust if the land and the other eligible acreage are held in~~
151 ~~trust.]~~

152 ~~[(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~
 153 ~~the commission may by rule define what constitutes:]~~

154 ~~[(i) a beneficial interest; and]~~

155 ~~[(ii) consistent with Subsection (1) and this Subsection (6), identical legal ownership.]~~

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

157 **59-2-504. Exclusions from designation as agricultural use -- Exception.**

158 (1) Except as provided in Subsection (2), land may not be assessed under this part if
 159 the land is:

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

163 (b) platted with surface improvements in place that are not an integral part of
 164 agricultural use.

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

170 (b) The county assessor may grant the petition for reinstatement described in
 171 Subsection (2)(a) if the land is actively devoted to agricultural use.

172 (3) For purposes of this section~~[-];~~:

173 (a) "platted with surface improvements in place" means ~~[any of the following surface~~
 174 ~~improvements are in place] that:~~

175 (i) land is platted; and

176 (ii) all surface improvements necessary for the land to be sold as a lot or a unit are in
 177 place:

178 (A) regardless of whether or not § IT IS § the owner of the land § WHO § puts the surface
 178a improvements

179 in place; and

180 (B) as determined by the:

181 (I) county legislative body if the land is located in an unincorporated area of the
 182 county;

183 (II) city legislative body if the land is located in a city; or
184 (III) town legislative body if the land is located in a town; and

185 (b) "surface improvement" means:

186 [~~(a)~~] (i) a curb;

187 [~~(b)~~] (ii) a gutter; or

188 [~~(c)~~] (iii) pavement.

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

190 **59-2-505. Indicia of value for agricultural use assessment -- Inclusion of fair**

191 **market value on tax notice.**

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

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

195 (ii) for which the owner has:

196 (A) made a timely application in accordance with Section 59-2-508 for assessment
197 under this part for the tax year for which the land is being assessed; and

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

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

205 (2) In addition to the value determined in accordance with Subsection (1), the ~~[assessor~~
206 ~~shall include the]~~ fair market value assessment shall be included on the ~~[notice]~~ notices
207 described in:

208 (a) Subsection 59-2-919(4)[:]; and

209 (b) Section 59-2-1317.

210 (3) The county board of equalization shall review the agricultural use value and fair
211 market value assessments each year as provided under Section 59-2-1001.

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

213 **59-2-506. Rollback tax -- Penalty -- Lien -- Computation of tax -- Procedure --**

214 **Collection -- Distribution.**

215 (1) Except as provided in this section, Section 59-2-506.5, or Section 59-2-511, if land
216 is withdrawn from this part, the land is subject to a rollback tax imposed in accordance with
217 this section.

218 (2) (a) An owner shall notify the county assessor that land is withdrawn from this part
219 within [~~180~~] 120 days after the day on which the land is withdrawn from this part.

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

222 (i) \$10; or

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

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

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

226 [~~(b) due and payable on the day the county assessor mails the notice required by~~
227 ~~Subsection (6):]~~

228 [~~(4)~~] (3) (a) The county assessor shall determine the amount of the rollback tax by
229 computing the difference for the rollback period described in Subsection [~~(4)~~] (3)(b) between:

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

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

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

234 (i) begins on the later of:

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

236 (B) five years preceding the day on which the county assessor mails the notice required
237 by Subsection [~~(6)~~] (5); and

238 (ii) ends the day on which the county assessor mails the notice required by Subsection
239 [~~(6)~~] (5).

240 [~~(5)~~] (4) (a) The county treasurer shall:

241 (i) collect the rollback tax; and

242 (ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien
243 on the property has been satisfied[-] by:

244 (A) preparing a document that certifies that the rollback tax lien on the property has

245 been satisfied; and

246 (B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder
247 for recordation.

248 (b) The rollback tax collected under this section shall:

249 (i) be paid into the county treasury; and

250 (ii) be paid by the county treasurer to the various taxing entities pro rata in accordance
251 with the property tax levies for the current year.

252 ~~[(6)]~~ (5) (a) The county assessor shall mail to an owner of the land that is subject to a
253 rollback tax a notice that:

254 (i) the land is withdrawn from this part;

255 (ii) the land is subject to a rollback tax under this section; and

256 (iii) the rollback tax is delinquent if the owner of the land does not pay the tax within
257 30 days after the day on which the county assessor mails the notice.

258 (b) (i) ~~[The]~~ The rollback tax is due and payable on the day the county assessor mails
259 the notice required by Subsection (5)(a).

260 (ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that
261 is withdrawn from this part does not pay the rollback tax within 30 days after the day on which
262 the county assessor mails the notice required by Subsection ~~[(6)]~~ (5)(a).

263 ~~[(7) The following shall be governed by the procedures provided for the assessment~~
264 ~~and taxation of real property not assessed under this part:]~~

265 ~~[(a) except as provided in this section, the assessment of the rollback tax imposed by~~
266 ~~Subsection (1);]~~

267 ~~[(b) the attachment of the lien for the rollback tax; and]~~

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

270 (6) (a) Subject to Subsection (6)(b), the following are a lien on the land assessed under
271 this part:

272 (i) the rollback tax; and

273 (ii) interest imposed in accordance with Subsection (7).

274 (b) The lien described in Subsection (6)(a) shall:

275 (i) arise upon the imposition of the rollback tax under this section;

276 (ii) end on the day on which the rollback tax and interest imposed in accordance with
 277 Subsection (7) are paid in full; and

278 (iii) relate back to the first day of the rollback period described in Subsection (3)(b).

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

280 (i) from the date of delinquency until paid; and

281 (ii) at the interest rate established under Section 59-2-1331 and in effect on January 1
 282 of the year in which the delinquency occurs.

283 (b) A rollback tax that is delinquent on September 1 of any year shall be included on
 284 the notice required by Section 59-2-1317, along with interest calculated on that delinquent
 285 amount through November 30 of the year in which the notice under Section 59-2-1317 is
 286 mailed.

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

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

293 (9) Except as provided in Section 59-2-511, land that becomes exempt from taxation
 294 under Utah Constitution Article XIII, Section [2] 3, is not subject to the rollback tax if the land
 295 meets the requirements of Section 59-2-503 to be assessed under this part.

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

298 (i) a decision by a county assessor to withdraw land from assessment under this part; or

299 (ii) impose a rollback tax under this section.

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

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

303 **59-2-506.5. Conservation easement rollback tax -- One-time in lieu fee payment --**
 304 **Computation -- Lien -- Procedure -- Collection -- Distribution.**

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

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

309 (ii) the creation of the conservation easement described in Subsection (1)(a)(i) is
310 considered to be a qualified conservation contribution for federal purposes under Section
311 170(h), Internal Revenue Code;

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

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

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

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

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

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

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

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

328 (B) except as provided in Subsection (2)(b), paid, collected, and distributed in the same
329 manner as the conservation easement rollback tax imposed in accordance with this section.

330 (b) Notwithstanding Subsection (2)(a)(ii)(B), a one-time in lieu fee payment under
331 Subsection (2)(a)(ii) is not a lien on the land described in Subsection (2)(a)(ii).

332 [~~(b)~~] (c) (i) The conservation easement rollback tax is an amount equal to [~~the product~~
333 ~~of: (i)~~] 20 times the property tax imposed on the land for each year [~~during the time period that~~
334 ~~is the shorter of:~~] for the rollback period described in Subsection (2)(c)(ii).

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

337 [~~(B) five years before the county assessor mails the notice required by Subsection~~

338 ~~(3)(b); and]~~
 339 ~~[(ii) 20:]~~
 340 (ii) For purposes of Subsection (2)(c)(i), the rollback period is a time period that:
 341 (A) begins on the later of:
 342 (I) the date the land became subject to a conservation easement; or
 343 (II) five years preceding the day on which the county assessor mails the notice required
 344 by Subsection (3)(a); and
 345 (B) ends the day on which the county assessor mails the notice required by Subsection
 346 (3)(a).
 347 ~~[(c)]~~ (d) An owner shall notify the county assessor that a conservation easement on
 348 land described in Subsection (1) has been terminated in accordance with Section 57-18-5
 349 within 180 days after the day on which the conservation easement is terminated.
 350 ~~[(3)(a) The conservation easement rollback tax under this section is:]~~
 351 ~~[(i) a lien on the land described in Subsection (1) until paid; and]~~
 352 ~~[(ii) due and payable on the day the county assessor mails the notice required by~~
 353 ~~Subsection (3)(b):]~~
 354 ~~[(b)]~~ (3)(a) If land is subject to a conservation easement rollback tax under Subsection
 355 (2), the county assessor shall mail to an owner of the land a notice that:
 356 (i) the land is subject to a conservation easement rollback tax under this section; and
 357 (ii) the conservation easement rollback tax is delinquent if the owner of the land does
 358 not pay the tax within 30 days after the day on which the county assessor mails the notice.
 359 ~~[(c)]~~ (b) The conservation easement rollback tax is:
 360 (i) due and payable on the day the county assessor mails the notice required by
 361 Subsection (3)(a):
 362 (ii) delinquent if an owner of the land that is subject to the conservation easement
 363 rollback tax does not pay the conservation easement rollback tax within 30 days after the day
 364 on which the county assessor mails the notice required by Subsection (3)~~[(b):] (a); and~~
 365 (iii) subject to the same:
 366 (A) interest provisions of Subsection 59-2-506(7) that apply to the rollback tax; and
 367 (B) notice requirements of Subsection 59-2-506(7) that apply to the rollback tax.
 368 ~~[(d) The]~~ (c) (i) Except as provided in Subsection (3)(c)(ii), conservation easement

369 rollback tax shall be paid, collected, subject to a lien, and distributed in a manner consistent
370 with this section and Section 59-2-506.

371 (ii) Notwithstanding Subsection (3)(c)(i), a lien under Subsection (3)(c)(i) relates back
372 to the day on which the conservation easement was terminated.

373 (4) (a) Notwithstanding Subsection (2), land described in Subsection (2) is not subject
374 to the conservation easement rollback tax or the one-time in lieu fee payment required by
375 Subsection (2) if after the conservation easement is terminated in accordance with Section
376 57-18-5:

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

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

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

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

388 (ii) pay the conservation easement rollback tax or the one-time in lieu fee payment
389 required by Subsection (2) as provided in this section.

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

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

395 **59-2-508. Application -- Signed statement -- Consent to audit and review --**
396 **Notice.**

397 (1) If an owner of land eligible for assessment under this part wants the land to be
398 assessed under this part, the owner shall submit an application to the county assessor of the
399 county in which the land is located.

- 400 (2) An application required by Subsection (1) shall:
- 401 (a) be on a form:
- 402 (i) approved by the commission; and
- 403 (ii) provided to an owner:
- 404 (A) by the county assessor; and
- 405 (B) at the request of an owner;
- 406 (b) provide for the reporting of information related to this part;
- 407 (c) be submitted by:
- 408 (i) May 1 of the tax year in which assessment under Subsection (1) is requested if the
- 409 land was not assessed under this part in the year before the application is submitted; or
- 410 (ii) by the date otherwise required by this part for land that prior to the application
- 411 being submitted has been assessed under this part;
- 412 (d) be signed by all of the owners of the land that under the application would be
- 413 assessed under this part;
- 414 (e) be accompanied by the prescribed fees made payable to the county [~~treasurer~~
- 415 recorder; ~~and~~]
- 416 (f) include a certification by an owner that the facts set forth in the application or
- 417 signed statement are true;
- 418 (g) include a statement that the application constitutes consent by the owners of the
- 419 land to the creation of a lien upon the land as provided in this part; and
- 420 ~~[(f)] (h) be recorded by the county recorder.~~
- 421 (3) The application required by Subsection (2) constitutes consent by the owners of the
- 422 land to the creation of a lien upon the land as provided in this part.
- 423 ~~[(3)] (4) (a) Once the application for assessment described in Subsection (1) has been~~
- 424 ~~approved, the county may:~~
- 425 (i) require the owner to submit a new application or a signed statement:
- 426 (A) by written request of the county assessor; and
- 427 (B) that verifies that the land qualifies for assessment under this part; or
- 428 (ii) except as provided in Subsection ~~[(3)] (4)(b)~~, require no additional signed
- 429 statement or application for assessment under this part.
- 430 (b) Notwithstanding Subsection ~~[(3)] (4)(a)~~, a county shall require that an owner

431 provide notice if land is withdrawn from this part:

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

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

435 (c) An application or signed statement required under Subsection [~~(3)~~] (4)(a) shall be
436 submitted by the date specified in the written request of the county assessor for the application
437 or signed statement.

438 [~~(4)~~] (5) A certification [~~by an owner that the facts set forth in the application or signed~~
439 ~~statement are true~~] under Subsection (2)(f) is considered as if made under oath and subject to
440 the same penalties as provided by law for perjury.

441 [~~(5)~~] (6) (a) All owners applying for participation under this part and all purchasers or
442 lessees signing statements under Subsection [~~(6)~~] (7) are considered to have given their consent
443 to field audit and review by:

444 (i) the commission;

445 (ii) the county assessor; or

446 (iii) the commission and the county assessor.

447 (b) The consent described in Subsection [~~(5)~~] (6)(a) is a condition to the acceptance of
448 any application or signed statement.

449 [~~(6)~~] (7) Any owner of land eligible for assessment under this part because a purchaser
450 or lessee actively devotes the land to agricultural use as required by Section 59-2-503, may
451 qualify the land for assessment under this part by submitting with the application required
452 under Subsection (2), a signed statement from that purchaser or lessee certifying those facts
453 that would be necessary to meet the requirements of Section 59-2-503 for assessment under
454 this part.

455 Section 8. Section **59-2-511** is amended to read:

456 **59-2-511. Acquisition of land by governmental entity -- Requirements -- Rollback**
457 **tax -- One-time in lieu fee payment.**

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

459 (a) the United States;

460 (b) the state;

461 (c) a political subdivision of the state, including:

- 462 (i) a county;
- 463 (ii) a city;
- 464 (iii) a town;
- 465 (iv) a school district; or
- 466 (v) a special district; or
- 467 (d) an entity created by the state or the United States, including:
 - 468 (i) an agency;
 - 469 (ii) a board;
 - 470 (iii) a bureau;
 - 471 (iv) a commission;
 - 472 (v) a committee;
 - 473 (vi) a department;
 - 474 (vii) a division;
 - 475 (viii) an institution;
 - 476 (ix) an instrumentality; or
 - 477 (x) an office.
- 478 (2) (a) Except as provided in Subsections (3) and (4), land acquired by a governmental
- 479 entity is subject to the rollback tax imposed by this part if:
 - 480 (i) prior to the governmental entity acquiring the land, the land is assessed under this
 - 481 part; and
 - 482 (ii) after the governmental entity acquires the land, the land does not meet the
 - 483 requirements of Section 59-2-503 for assessment under this part.
- 484 (b) A person dedicating a public right-of-way to a governmental entity shall pay the
- 485 rollback tax imposed by this part if:
 - 486 (i) a portion of the public right-of-way is located within a subdivision as defined in
 - 487 Section 10-9-103; or
 - 488 (ii) in exchange for the dedication, the person dedicating the public right-of-way
 - 489 receives:
 - 490 (A) money; or
 - 491 (B) other consideration.
- 492 (3) (a) Except as provided in Subsection (4), land acquired by a governmental entity is

493 not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee
494 payment as provided in Subsection (3)(b), if:

- 495 (i) the governmental entity acquires the land by eminent domain;
496 (ii) (A) the land is under the threat or imminence of eminent domain proceedings; and
497 (B) the governmental entity provides written notice of the proceedings to the owner; or
498 (iii) the land is donated to the governmental entity.

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

- 501 (A) to the county treasurer of the county in which the land is located; and
502 (B) in an amount equal to the amount of rollback tax calculated under Section
503 59-2-506.

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

- 506 (A) to the county treasurer of the county in which the land is located; and
507 (B) (I) if the land remaining after the acquisition by the governmental entity meets the
508 requirements of Section 59-2-503, in an amount equal to the rollback tax under Section
509 59-2-506 on the land acquired by the governmental entity; or
510 (II) if the land remaining after the acquisition by the governmental entity is less than
511 five acres, in an amount equal to the rollback tax under Section 59-2-506 on the land acquired
512 by the governmental entity and the land remaining after the acquisition by the governmental
513 entity.

514 (iii) For purposes of Subsection (3)(b)(ii), "land remaining after the acquisition by the
515 governmental entity" includes other eligible acreage [~~described in Subsection~~
516 ~~59-2-503(1)(a)(i)~~] that is used in conjunction with the land remaining after the acquisition by
517 the governmental entity.

518 (c) A county receiving an in lieu fee payment under Subsection (3)(b) shall distribute
519 the revenues generated by the payment:

- 520 (i) to the taxing entities in which the land is located; and
521 (ii) in the same proportion as the revenue from real property taxes is distributed.

522 (4) Except as provided in Section 59-2-506.5, if land acquired by a governmental entity
523 is made subject to a conservation easement in accordance with Section 59-2-506.5:

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

527 (5) If a governmental entity acquires land subject to assessment under this part, title to
528 the land may not pass to the governmental entity until the following are paid to the county
529 treasurer:

- 530 (a) any tax due under this part;
531 (b) any one-time in lieu fee payment due under this part; and
532 (c) any interest due under this part.

533 Section 9. **Effective date.**

534 This act takes effect on January 1, 2004.

Legislative Review Note
as of 2-19-03 4:03 PM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0148

Property Tax - Farmland Assessment Act

25-Feb-03

12:01 PM

State Impact

No significant fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst