

1                                   **RESIDENTIAL PROPERTY TAX EXEMPTIONS**

2                                                           2003 GENERAL SESSION

3                                                           STATE OF UTAH

4                                                           **Sponsor: Ed P. Mayne**

5 **This act modifies the Property Tax Act to provide definitions, to provide for an**  
6 **exemption from taxation of a portion of the fair market value of a qualifying secondary**  
7 **residence, and to clarify the exemption from taxation of a portion of the fair market value**  
8 **of a primary residence. The act establishes procedures and requirements for claiming an**  
9 **exemption for a qualifying secondary residence. This act requires the State Tax**  
10 **Commission to make distributions from the General Fund to counties for the amount of**  
11 **exemptions claimed for qualifying secondary residences and establishes procedures for**  
12 **making such distributions. This act makes technical changes.**

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

14 AMENDS:

15           **59-2-102**, as last amended by Chapters 196 and 240, Laws of Utah 2002

16           **59-2-103**, as last amended by Chapter 275, Laws of Utah 1995

17 ENACTS:

18           **59-2-1115**, Utah Code Annotated 1953

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

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

21           **59-2-102. Definitions.**

22           As used in this chapter and title:

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

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



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

30 (3) "Air contract service" means an air carrier operation that is:

31 (a) available only to customers who engage the services of the carrier through a  
32 contractual agreement and excess capacity on any trip; and [is]

33 (b) not available to the public at large.

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

35 (5) "Airline" means any air carrier operating interstate routes on a scheduled basis  
36 [which] that offers to fly passengers or cargo on the basis of available capacity on regularly  
37 scheduled routes.

38 (6) "Assessment roll" means a permanent record of the assessment of property:

39 (a) as assessed by the county assessor and the commission; and

40 (b) that may be maintained manually or as a computerized file as a consolidated record  
41 or as multiple records by type, classification, or categories.

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

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

46 (a) any commercial vehicle, trailer, or semitrailer [which] that:

47 (i) is not apportioned under Section 41-1a-301; and

48 (ii) is not operated interstate to transport the vehicle owner's goods or property in  
49 furtherance of the owner's commercial enterprise;

50 (b) any passenger vehicle;

51 (i) owned by a business; and

52 (ii) used by [its] the business' employees for transportation as a company car or  
53 vanpool vehicle; and

54 (c) vehicles [which] that are:

55 (i) especially constructed for towing or wrecking, and [which] that are not otherwise  
56 used to transport goods, merchandise, or people for compensation;

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

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

- 59 (iv) used or licensed in this state for use as ambulances or hearses;
- 60 (v) especially designed and used for garbage and rubbish collection; or
- 61 (vi) used exclusively to transport students or their instructors to or from any private,
- 62 public, or religious school or school activities.

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

- 66 (i) a county; and
- 67 (ii) a school district.

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

- 70 (i) the taxing entities described in Subsection (9)(a); and
- 71 (ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a)  
72 and the boundaries of the city or town are identical; or
- 73 (B) a special service district if the boundaries of the school district under Subsection  
74 (9)(a) are located entirely within the special service district.

75 (10) "Eligible judgment" means a final and unappealable judgment or order under  
76 Section 59-2-1330:

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

80 (b) for which a taxing entity's share of the final and unappealable judgment or order is  
81 greater than or equal to the lesser of:

- 82 (i) \$5,000; or
- 83 (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the  
84 previous fiscal year.

85 (11) (a) "Escaped property" means any property, whether personal, land, or any  
86 improvements to the property, subject to taxation ~~and~~ that is:

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

89 (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to

90 comply with the reporting requirements of this chapter; or

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

93 (b) ~~[Property which]~~ "Escaped property" does not include property that is undervalued  
94 because of the use of a different valuation methodology or because of a different application of  
95 the same valuation methodology ~~[is not "escaped property."].~~

96 (12) "Fair market value" means the amount at which property would change hands  
97 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell  
98 and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair  
99 market value" shall be determined using the current zoning laws applicable to the property in  
100 question, except in cases where there is a reasonable probability of a change in the zoning laws  
101 affecting that property in the tax year in question and the change would have an appreciable  
102 influence upon the value.

103 (13) (a) "Farm machinery and equipment," for purposes of the exemption provided  
104 under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities,  
105 feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters,  
106 tillage tools, scales, combines, spreaders, sprayers, haying equipment, and any other machinery  
107 or equipment used primarily for agricultural purposes~~;~~but.

108 (b) "Farm machinery and equipment" does not include:

109 (i) vehicles required to be registered with the Motor Vehicle Division; or

110 (ii) vehicles or other equipment used for business purposes other than farming.

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

113 (15) "Geothermal resource" means:

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

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

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

- 121 (17) "Intangible property":
- 122 (a) means property that is capable of private ownership separate from tangible
- 123 property; and
- 124 (b) includes:
- 125 (i) moneys;
- 126 (ii) credits;
- 127 (iii) bonds;
- 128 (iv) stocks;
- 129 (v) representative property;
- 130 (vi) franchises;
- 131 (vii) licenses;
- 132 (viii) trade names;
- 133 (ix) copyrights; and
- 134 (x) patents.
- 135 (18) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.
- 136 (19) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
- 137 valuable mineral.
- 138 (20) "Mining" means the process of producing, extracting, leaching, evaporating, or
- 139 otherwise removing a mineral from a mine.
- 140 (21) (a) "Mobile flight equipment" means tangible personal property that is:
- 141 (i) owned or operated by an:
- 142 (A) air charter service;
- 143 (B) air contract service; or
- 144 (C) airline; and
- 145 (ii) (A) capable of flight;
- 146 (B) attached to an aircraft that is capable of flight; or
- 147 (C) contained in an aircraft that is capable of flight if the tangible personal property is
- 148 intended to be used:
- 149 (I) during multiple flights;
- 150 (II) during a takeoff, flight, or landing; and
- 151 (III) as a service provided by an air charter service, air contract service, or airline.

152 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare  
153 engine that is rotated:

- 154 (A) at regular intervals; and
- 155 (B) with an engine that is attached to the aircraft.

156 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
157 the commission may make rules defining the term "regular intervals."

158 (22) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts,  
159 sand, rock, gravel, and all carboniferous materials.

160 (23) "Personal property" includes:

- 161 (a) ~~[every]~~ each class of property as defined in Subsection ~~[(24) which]~~ (25) that is:
  - 162 (i) the subject of ownership; and
  - 163 (ii) not [~~included within the meaning of the terms "~~real estate[" ~~and "~~improvements";
- 164 (b) gas and water mains and pipes laid in roads, streets, or alleys;
- 165 (c) bridges and ferries; and
- 166 (d) livestock which, for the purposes of the exemption provided under Section  
167 59-2-1112, means all domestic animals, honeybees, poultry, fur-bearing animals, and fish.

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

- 169 (i) for residential purposes; and
- 170 (ii) as a domicile.
- 171 (b) "Primary residence" does not include:
  - 172 (i) property used as a transient residence; or
  - 173 (ii) a condominium used in a rental pool.

174 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
175 commission may by rule define the terms:

- 176 (i) "domicile";
- 177 (ii) "transient residence"; or
- 178 (iii) "rental pool."

179 ~~[(24)]~~ (25) (a) "Property" means property that is subject to assessment and taxation  
180 according to its value.

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

182 ~~[(25)]~~ (26) "Public utility," for purposes of this chapter, means the operating property

183 of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline  
184 company, electrical corporation, telephone corporation, sewerage corporation, or heat  
185 corporation where the company performs the service for, or delivers the commodity to, the  
186 public generally or companies serving the public generally, or in the case of a gas corporation  
187 or an electrical corporation, where the gas or electricity is sold or furnished to any member or  
188 consumers within the state for domestic, commercial, or industrial use. Public utility also  
189 means the operating property of any entity or person defined under Section 54-2-1 except water  
190 corporations.

191 (27) (a) "Qualifying 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) is not rented to another person during a calendar year for which a residential

203 exemption for a qualifying secondary residence is claimed in accordance with Section

204 59-2-1115.

205 (b) "Qualifying secondary residence" does not include:

206 (i) a condominium used in a rental pool;

207 (ii) a houseboat;

208 (iii) property owned by:

209 (A) a for-profit business entity; or

210 (B) more than two persons, unless the persons are related persons;

211 (iv) a recreational vehicle as defined in Section 13-14-102;

212 (v) a tent; or

213 (vi) property similar to the property described in Subsections (27)(b)(i) through (v).

214 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
 215 commission may make rules defining:

216 (i) the terms:

217 (A) "rental pool";

218 (B) "houseboat"; or

219 (C) "tent"; or

220 (ii) what constitutes property similar to the property described in Subsections (27)(b)(i)  
 221 through (v).

222 ~~[(26)]~~ (28) "Real estate" or "real property" includes:

223 (a) the possession of, claim to, ownership of, or right to the possession of land;

224 (b) all mines, minerals, and quarries in and under the land, all timber belonging to  
 225 individuals or corporations growing or being on the lands of this state or the United States, and  
 226 all rights and privileges appertaining to these; and

227 (c) improvements.

228 (29) For purposes of Subsection (27), "related persons" means a relationship in which  
 229 each owner of a residence is related to all of the other owners of the residence as:

230 (a) an ancestor;

231 (b) a brother or sister by the whole or half blood;

232 (c) a lineal descendant;

233 (d) a spouse;

234 (e) a stepbrother or stepsister;

235 (f) a stepfather or stepmother;

236 (g) a stepgrandchild;

237 (h) a stepdaughter or stepson; or

238 (i) a spouse of an owner described in Subsections (29)(a) through (h).

239 ~~[(27)]~~ (30) "Residential property," for the purposes of the reductions and adjustments  
 240 under this chapter, means ~~[any property used for residential purposes as]:~~

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

243 (b) a qualifying secondary residence.

244 ~~[(28)]~~ (31) For purposes of Subsection 59-2-801(1)(e), "route miles" means the number



245 of miles calculated by the commission that is:

- 246 (a) measured in a straight line by the commission; and
- 247 (b) equal to the distance between a geographical location that begins or ends:
  - 248 (i) at a boundary of the state; and
  - 249 (ii) where an aircraft:
    - 250 (A) takes off; or
    - 251 (B) lands.

252 [~~(29)~~] (32) (a) "State-assessed commercial vehicle" means:

253 (i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate  
254 to transport passengers, freight, merchandise, or other property for hire; or

255 (ii) any commercial vehicle, trailer, or semitrailer which operates interstate and  
256 transports the vehicle owner's goods or property in furtherance of the owner's commercial  
257 enterprise.

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

260 [~~(30)~~] (33) "Taxable value" means fair market value less any applicable reduction  
261 allowed for residential property under Section 59-2-103.

262 [~~(31)~~] (34) "Tax area" means a geographic area created by the overlapping boundaries  
263 of one or more taxing entities.

264 [~~(32)~~] (35) "Taxing entity" means any county, city, town, school district, special taxing  
265 district, or any other political subdivision of the state with the authority to levy a tax on  
266 property.

267 [~~(33)~~] (36) (a) "Tax roll" means a permanent record of the taxes charged on property[;]:

268 (i) as extended on the assessment roll; and

269 (ii) that may be maintained on:

270 (A) the same record or records as the assessment roll; or [~~may be maintained on~~]

271 (B) a separate record properly indexed to the assessment roll. [~~H~~]

272 (b) "Tax roll" includes tax books, tax lists, and other similar materials.

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

274 **59-2-103. Rate of assessment of property -- Residential property.**

275 (1) [~~AH~~] Unless otherwise provided by law, all tangible taxable property shall be

276 assessed and taxed at a uniform and equal rate on the basis of [its] the property's fair market  
277 value, as valued on January 1 [~~unless otherwise provided by law~~].

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

281 (a) beginning on January 1, 1995, 45% of the fair market value of each primary  
282 residence in the state is exempt; and

283 (b) subject to Section 59-2-1115, beginning on January 1, 2004, 25% of up to the first  
284 \$100,000 of the fair market value of a qualifying secondary residence in the state is exempt.

285 (3) No more than one acre of land per residential unit may qualify for the residential  
286 exemption.

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

288 **59-2-1115. Residential exemption for a qualifying secondary residence -- Signed**  
289 **statement -- Distributions to county from General Fund.**

290 (1) A county assessor shall allow a residential exemption for a qualifying secondary  
291 residence if the county assessor determines that:

292 (a) the requirements of Subsection (2) are met;

293 (b) the property is a qualifying secondary residence; and

294 (c) none of the owners of the qualifying secondary residence claim a residential  
295 exemption for any other qualifying secondary residence in the state.

296 (2) An owner of a qualifying secondary residence seeking to claim a residential  
297 exemption provided for in Section 59-2-103 for the qualifying secondary residence shall file a  
298 statement with the county assessor:

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

300 (b) that is signed by all of the owners of the qualifying secondary residence;

301 (c) subject to Subsection (4), on or before April 1 of the year for which the owner  
302 requests the residential exemption for the qualifying secondary residence; and

303 (d) certifying that:

304 (i) the property is a qualifying secondary residence; and

305 (ii) none of the owners are claiming a residential exemption for any other qualifying  
306 secondary residence in the state.

307 (3) An owner shall notify the county assessor in writing within 30 days after the day on  
308 which:

- 309 (a) there is a change of ownership of the property;
- 310 (b) the property is not a qualifying secondary residence; or
- 311 (c) an owner applies to claim a residential exemption for another qualifying secondary  
312 residence in the state.

313 (4) If a county assessor allows a residential exemption for a qualifying secondary  
314 residence under this section, for the time period during which the qualifying secondary  
315 residence is eligible for the residential exemption:

- 316 (a) the statement described in Subsection (2) is valid; and
- 317 (b) another statement is not required to be filed in accordance with Subsection (2).

318 (5) (a) The commission shall make distributions from the General Fund in accordance  
319 with this Subsection (5) to fund the residential exemptions the county grants for qualifying  
320 secondary residences within the county in accordance with:

- 321 (i) this section; and
- 322 (ii) Section 59-2-103.

323 (b) For purposes of Subsection (5)(a), a county legislative body shall submit to the  
324 commission a list of:

- 325 (i) each owner signing a statement that is filed with the county assessor in accordance  
326 with Subsection (2);
- 327 (ii) for each property allowed a residential exemption for a qualifying secondary  
328 residence by the county assessor, the amount of the reduction of tax as a result of the residential  
329 exemption; and

330 (iii) for all of the properties allowed residential exemptions for qualifying secondary  
331 residences by the county assessor, the total amount of the reduction of tax as a result of the  
332 residential exemptions.

333 (c) The commission shall distribute the amount described in Subsection (5)(b)(iii):

- 334 (i) to the county in which the qualifying secondary residences described in Subsection  
335 (5)(b)(iii) are located; and

336 (ii) (A) on or before January 1 of each year if the county legislative body submits the  
337 list required by Subsection (5)(b):

338           (I) to the commission; and  
339           (II) on or before November 30 of the year in which the residential exemptions for a  
340 qualifying secondary residence are granted; or  
341           (B) within 30 days after the day on which the county legislative body submits the list  
342 required by Subsection (5)(b) to the commission if the county legislative body submits the list  
343 required by Subsection (5)(b) after the date described in Subsection (5)(c)(ii)(A)(II).

---

---

**Legislative Review Note**  
**as of 1-13-03 11:45 AM**

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

**Office of Legislative Research and General Counsel**

**State Impact**

Passage of this bill could decrease the General Fund by \$3,800,000 in FY 2005 and by \$3,900,000 in FY 2006. There would be no impact to the locals, as any loss of revenues will be covered by the State.

	<u>FY 04 Approp.</u>	<u>FY 05 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Revenue</u>
General Fund	\$0	\$0	\$0	(\$3,800,000)
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$3,800,000)</b>

---

---

**Individual and Business Impact**

Owners of certain secondary residences would receive a 25 percent property tax break on the first \$100,000 value of their homes.

---

---

**Office of the Legislative Fiscal Analyst**