

PROPERTY TAX - VETERAN'S EXEMPTION

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Don E. Bush

LONG TITLE

General Description:

This bill amends the veteran's exemption under the Property Tax Act.

Highlighted Provisions:

This bill:

- ▶ provides that the unmarried surviving spouse or minor orphan of a veteran may be allowed a veteran's exemption regardless of whether the unmarried surviving spouse or minor orphan is the owner of the property as of January 1 of the year the exemption is claimed;

- ▶ provides definitions;

- ▶ expands the types of property for which a claimant may receive a veteran's exemption;

- ▶ modifies the procedures and requirements for claiming a veteran's exemption

including:

- extending the deadline for filing an application for a veteran's exemption under certain circumstances;

- allowing an application for a veteran's exemption to be amended under certain circumstances and providing a due date for filing an amended application; and

- modifying the documentation required to be included with an application for a veteran's exemption;

- ▶ grants rulemaking authority to the State Tax Commission; and

- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill has retrospective operation to January 1, 2004.

Utah Code Sections Affected:

AMENDS:

59-2-1101, as last amended by Chapters 169 and 286, Laws of Utah 2002

59-2-1104, as last amended by Chapters 221 and 310, Laws of Utah 2001

59-2-1105, as last amended by Chapters 221 and 310, Laws of Utah 2001

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

Section 1. Section **59-2-1101** is amended to read:

59-2-1101. Exemption of certain property -- Proportional payments for government-owned property -- County legislative body authority to adopt rules or ordinances.

(1) (a) Except as provided in Subsection (1)(b) or (c), the exemptions, deferrals, and abatements authorized by this part may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

(b) Notwithstanding Subsection (1)(a), if the claimant is a federal, state, or political subdivision entity under Subsection (2)(a), (b), or (c), the entity shall collect and pay a proportional tax based upon the length of time that the property was not owned by the entity.

(c) Notwithstanding Subsection (1)(a), a claimant may be allowed a veteran's exemption in accordance with Sections 59-2-1104 and 59-2-1105 regardless of whether the claimant is the owner of the property as of January 1 of the year the exemption is claimed if the claimant is:

(i) the unmarried surviving spouse of:

(A) a deceased disabled veteran as defined in Section 59-2-1104; or

(B) a veteran who was killed in action or died in the line of duty as defined in Section

59-2-1104; or

(ii) a minor orphan of:

(A) a deceased disabled veteran as defined in Section 59-2-1104; or

(B) a veteran who was killed in action or died in the line of duty as defined in Section 59-2-1104.

- (2) The following property is exempt from taxation:
 - (a) property exempt under the laws of the United States;
 - (b) property of the state, school districts, and public libraries;
 - (c) property of counties, cities, towns, special districts, and all other political subdivisions of the state, except as provided in Title 11, Chapter 13, Interlocal Cooperation Act;
 - (d) property owned by a nonprofit entity which is used exclusively for religious, charitable, or educational purposes;
 - (e) places of burial not held or used for private or corporate benefit;
 - (f) farm equipment and machinery;
 - (g) intangible property; and
 - (h) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103, in property providing additional project capacity, as defined in Section 11-13-103, on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.

- (3) A county legislative body may adopt rules or ordinances to:
 - (a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided in this part; and
 - (b) designate one or more persons to perform the functions given the county under this part.

Section 2. Section **59-2-1104** is amended to read:

59-2-1104. Definitions -- Veteran's exemption -- Amount of veteran's exemption.

- (1) As used in this section[;] and Section 59-2-1105:
 - (a) "claimant" means:
 - (i) a disabled veteran who files an application under Section 59-2-1105 for a veteran's exemption;
 - (ii) the unmarried surviving spouse:
 - (A) of a:

(I) deceased disabled veteran; or

(II) veteran who was killed in action or died in the line of duty;

(B) who files an application under Section 59-2-1105 for a veteran's exemption;

(iii) a minor orphan:

(A) of a:

(I) deceased disabled veteran; or

(II) veteran who was killed in action or died in the line of duty; and

(B) who files an application under Section 59-2-1105 for a veteran's exemption;

(b) "deceased disabled veteran" means a deceased person who was a disabled veteran at the time the person died;

(c) "disabled veteran" means a disabled person who, during military training or a military conflict, was disabled in the line of duty in the military service of the United States or the state;

(d) "military entity" means:

(i) the federal Department of Veterans Affairs; or

(ii) a component of the armed forces of:

(A) the United States; or

(B) the state;

(e) "residence" is as defined in Section 59-2-1202, except that a rented dwelling is not considered to be a residence[-];

(f) "veteran who was killed in action or died in the line of duty" means a person who was killed in action or died in the line of duty in the military service of the United States or the state, regardless of whether that person was disabled at the time that person was killed in action or died in the line of duty; and

(g) "veteran's exemption" means a property tax exemption provided for in Subsection (2).

(2) (a) [~~Subject to Section 59-2-1105, including the reduction provided for in Subsection 59-2-1105(5)(b), the first \$82,500]~~ The amount of taxable value of the property described in Subsection (2)(b) is exempt from taxation as calculated under Subsections (2)(c) through (e) if the [residence] property described in Subsection (2)(b) is owned by:

~~[(i) a person who:]~~

~~[(A) is less than 100% disabled; and]~~

~~[(B) was disabled in the line of duty during any war, international conflict, or military training in the military service of the United States or of this state; or]~~

(i) a disabled veteran; or

~~(ii) the unmarried surviving spouse and minor orphans of [any person described in Subsection (2)(a)(i), or of a person who, during any war, international conflict, or military training in the military service of the United States or of this state, was killed in action or died in the line of duty as a result of the military service.] a:~~

(A) deceased disabled veteran; or

(B) veteran who was killed in action or died in the line of duty.

(b) Subsection (2)(a) applies to the following property:

(i) real property, including a residence;

(ii) tangible personal property; or

(iii) a combination of Subsections (2)(b)(i) and (ii).

~~[(3) (a) Subject to Section 59-2-1105, the first \$82,500 of the total taxable value of property described in Subsection (3)(b) is exempt from taxation if the property is owned by:]~~

~~[(i) a person who:]~~

~~[(A) is 100% disabled; and]~~

~~[(B) was disabled in the line of duty during any war, international conflict, or military training in the military service of the United States or of this state; or]~~

~~[(ii) the unmarried surviving spouse and minor orphans of any person described in Subsection (3)(a)(i), or of a person who, during any war, international conflict, or military training in the military service of the United States or of this state, was killed in action or died in the line of duty as a result of the military service.]~~

~~[(b) Subsection (3)(a) applies to the following property:]~~

~~[(i) real property, including a residence;]~~

~~[(ii) tangible personal property; or]~~

~~[(iii) a combination of Subsections (3)(b)(i) and (ii).]~~

(c) Except as provided in Subsection (2)(d) or (e), the amount of taxable value of property described in Subsection (2)(b) that is exempt under Subsection (2)(a) is equal to the lesser of:

(i) the product of:

(A) the percentage of disability listed on the certificate described in Subsection 59-2-1105(3)(a); and

(B) \$82,500; or

(ii) the total taxable value of the claimant's property described in Subsection (2)(b).

(d) Notwithstanding Subsection (2)(c), a veteran's exemption may not be allowed under this Subsection (2) if the percentage of disability listed on the certificate described in Subsection 59-2-1105(3)(a) is less than 10%.

(e) (i) Notwithstanding Subsection (2)(c), a claimant who is the unmarried surviving spouse or minor orphan of a deceased disabled veteran may claim a veteran's exemption as provided in Subsection (2)(e)(ii) if:

(A) the deceased disabled veteran served in the military service of the United States or the state prior to January 1, 1921; and

(B) the percentage of disability listed on the certificate described in Subsection 59-2-1105(3)(a) for the deceased disabled veteran is 10% or more.

(ii) For purposes of Subsection (2)(e)(i), the amount of taxable value of property described in Subsection (2)(b) that is exempt under Subsection (2)(a) is equal to the lesser of:

(A) \$82,500; or

(B) the total taxable value of the claimant's property described in Subsection (2)(b).

Section 3. Section **59-2-1105** is amended to read:

**59-2-1105. Application for veteran's exemption -- Rulemaking authority --
Statement -- County authority to make refunds.**

(1) (a) ~~[The exemptions authorized by Section 59-2-1104]~~ A veteran's exemption may be allowed only if the interest of the claimant is on record on January 1 of the year the exemption is

claimed.

(b) If the claimant has an interest in real property under a contract, the veteran's exemption [~~under Section 59-2-1104~~] may be allowed if it is proved to the satisfaction of the county that the claimant is:

- (i) the purchaser under the contract; and
- (ii) obligated to pay the taxes on the property beginning January 1 of the year the exemption is claimed.

(c) If the claimant is the grantor of a trust holding title to real or tangible personal property on which [~~an~~] a veteran's exemption is claimed, the claimant may claim the portion of the veteran's exemption under Section 59-2-1104 and be treated as the owner of that portion of the property held in trust for which the claimant proves to the satisfaction of the county that:

(i) title to the portion of the trust will revert in the claimant upon the exercise of a power:

(A) by:

- (I) the claimant as grantor of the trust;
- (II) a nonadverse party; or
- (III) both the claimant and a nonadverse party; and

(B) regardless of whether the power is a power:

- (I) to revoke;
- (II) to terminate;
- (III) to alter;
- (IV) to amend; or
- (V) to appoint;

(ii) the claimant is obligated to pay the taxes on that portion of the trust property beginning January 1 of the year the claimant claims the exemption; and

(iii) the claimant meets the requirements under this part for the exemption.

(2) (a) (i) [~~On or before September 1 each year, any person~~] A claimant applying for a veteran's exemption under this section shall file an application:

(A) with the county in which that person resides[-]; and

(B) except as provided in Subsection (2)(b), on or before September 1 of the year in which that claimant is applying for the veteran's exemption in accordance with this section.

(ii) A county shall provide a claimant who files an application for a veteran's exemption in accordance with this section with a receipt:

(A) stating that the county received the claimant's application; and

(B) no later than 30 days after the day on which the claimant filed the application in accordance with this section.

(b) Notwithstanding Subsection (2)(a)(i)(B):

(i) subject to Subsection (2)(b)(iv), for a claimant who applies for a veteran's exemption on or after January 1, 2004, a county shall extend the deadline for filing the application required by Subsection (2)(a) to September 1 of the year after the year the claimant would otherwise be required to file the application under Subsection (2)(a)(i)(B) if:

(A) on or after January 1, 2004, a military entity issues a written decision that the:

(I) disabled veteran is disabled; or

(II) deceased disabled veteran with respect to whom the claimant applies for a veteran's exemption was disabled at the time the deceased disabled veteran died; and

(B) the date the written decision described in Subsection (2)(b)(i)(A) takes effect is in any year prior to the current calendar year;

(ii) subject to Subsections (2)(b)(iv) and (2)(d), for a claimant who applies for a veteran's exemption on or after January 1, 2004, a county shall allow the claimant to amend the application required by Subsection (2)(a) on or before September 1 of the year after the year the claimant filed the application under Subsection (2)(a)(i)(B) if:

(A) on or after January 1, 2004, a military entity issues a written decision that the percentage of disability has changed for the:

(I) disabled veteran; or

(II) deceased disabled veteran with respect to whom the claimant applies for a veteran's exemption; and

(B) the date the written decision described in Subsection (2)(b)(ii)(A) takes effect is in

any year prior to the current calendar year;

(iii) subject to Subsections (2)(b)(iv) and (2)(d), for a claimant who applies for a veteran's exemption on or after January 1, 2004, a county shall extend the deadline for filing the application required by Subsection (2)(a) to September 1 of the year after the year the claimant would otherwise be required to file the application under Subsection (2)(a)(i)(B) if the county legislative body determines that:

(A) the claimant or a member of the claimant's immediate family had an illness or injury that prevented the claimant from filing the application on or before the deadline for filing the application established in Subsection (2)(a)(i)(B);

(B) a member of the claimant's immediate family died during the calendar year the claimant was required to file the application under Subsection (2)(a)(i)(B);

(C) the claimant was not physically present in the state for a time period of at least six consecutive months during the calendar year the claimant was required to file the application under Subsection (2)(a)(i)(B); or

(D) the failure of the claimant to file the application on or before the deadline for filing the application established in Subsection (2)(a)(i)(B):

(I) would be against equity or good conscience; and

(II) was beyond the reasonable control of the claimant; and

~~[(b) A]~~ (iv) a county may extend the deadline for filing an application or amending an application under this Subsection (2)~~[(a)]~~ until December 31 if the county finds that good cause exists to extend the deadline.

(c) The following shall accompany the initial application for a veteran's exemption:

(i) a copy of the veteran's certificate of discharge from the military service of:

(A) the United States; or

(B) this state; or

(ii) other satisfactory evidence of eligible military service.

~~[(3) If the application is made by a veteran who served in the military of the United States or of this state prior to January 1, 1921, or by the unmarried surviving spouse or minor orphan of~~

~~that veteran, a certificate from the Department of Veterans Affairs, or from any other source required by the county, showing the percentage of disability of the veteran shall accompany the application.]~~

~~[(4) Any application made by a veteran who served in the military service of the United States or of this state on or after January 1, 1921, or by the unmarried surviving spouse or minor orphan of that veteran, shall be accompanied by a certificate from the Department of Veterans Affairs, or from any other source required by the county, showing the percentage of disability incurred or aggravated in the line of duty during any war, international conflict, or military training in the military service of the United States or of this state.]~~

~~[(5) (a) If the veteran is 100% disabled, the veteran's property tax exemption is as provided in Subsection 59-2-1104(3).]~~

~~[(b) If the certificate under this section shows a lesser percentage of disability, the exemption allowed under Subsection 59-2-1104(2) is that percentage of \$82,500, except that an exemption may not be allowed for any disability below 10%.]~~

~~[(6) The unmarried surviving spouse and minor orphans of a deceased veteran are entitled to the greater of:]~~

~~[(a) the full exemption if the veteran's disability was 10% or more and the veteran served prior to January 1, 1921; or]~~

~~[(b) the same exemption to which the disabled veteran would have been entitled, if the veteran served on or after January 1, 1921].~~

~~(d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule:~~

~~(i) establish procedures and requirements for amending an application under Subsection (2)(b)(ii);~~

~~(ii) for purposes of Subsection (2)(b)(iii), define the terms:~~

~~(A) "immediate family"; or~~

~~(B) "physically present"; or~~

~~(iii) for purposes of Subsection (2)(b)(iii), prescribe the circumstances under which the~~

failure of a claimant to file an application on or before the deadline for filing the application established in Subsection (2)(a)(i)(B):

(A) would be against equity or good conscience; and

(B) is beyond the reasonable control of a claimant.

(3) (a) (i) Subject to Subsection (3)(a)(ii), a claimant who files an application for a veteran's exemption shall have on file with the county a statement:

(A) issued by a military entity; and

(B) listing the percentage of disability for the disabled veteran or deceased disabled veteran with respect to whom a claimant applies for a veteran's exemption.

(ii) If a claimant has on file with the county the statement described in Subsection (3)(a)(i), the county may not require the claimant to file another statement described in Subsection (3)(a)(i) unless:

(A) the claimant who files an application under this section for a veteran's exemption with respect to a deceased disabled veteran or veteran who was killed in action or died in the line of duty is a person other than the claimant who filed the statement described in Subsection (3)(a)(i) for a veteran's exemption:

(I) for the calendar year immediately preceding the current calendar year; and

(II) with respect to that deceased disabled veteran or veteran who was killed in action or died in the line of duty; or

(B) the percentage of disability has changed for a:

(I) disabled veteran; or

(II) deceased disabled veteran with respect to whom the claimant applies for a veteran's exemption under this section.

(b) For a claimant filing an application in accordance with Subsection (2)(b)(i), the claimant shall include with the application required by Subsection (2) a statement issued by a military entity listing the date the written decision described in Subsection (2)(b)(i)(A) takes effect.

(c) For a claimant amending an application in accordance with Subsection (2)(b)(ii), the

claimant shall provide to the county a statement issued by a military entity listing the date the written decision described in Subsection (2)(b)(ii)(A) takes effect.

~~[(7)]~~ (4) (a) For purposes of this Subsection ~~[(7)]~~ (4):

(i) "Property taxes due" means the taxes due on a ~~[person's]~~ claimant's property:

(A) for which ~~[an]~~ a veteran's exemption is granted by a county ~~[under Section 59-2-1104]~~; and

(B) for the calendar year for which the veteran's exemption is granted.

(ii) "Property taxes paid" is an amount equal to the sum of:

(A) the amount of the property taxes the ~~[person]~~ claimant paid for the ~~[taxable]~~ calendar year for which the ~~[person]~~ claimant is applying for the veteran's exemption; and

(B) the ~~[amount of tax the county exempts under Section 59-2-1104]~~ veteran's exemption the county granted for the calendar year described in Subsection (4)(a)(ii)(A).

(b) A county granting ~~[an]~~ a veteran's exemption to a ~~[person under Section 59-2-1104]~~ claimant shall refund to that ~~[person]~~ claimant an amount equal to the amount by which the ~~[person's]~~ claimant's property taxes paid exceed the ~~[person's]~~ claimant's property taxes due, if that amount is \$1 or more.

Section 4. Retrospective operation.

This bill has retrospective operation to January 1, 2004.