

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; and

- ▶ makes technical changes.

Monies Appropriated in this Bill:



28 None

29 **Other Special Clauses:**

30 This bill has retrospective operation to January 1, 2004.

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **59-2-1101**, as last amended by Chapters 169 and 286, Laws of Utah 2002

34 **59-2-1104**, as last amended by Chapters 221 and 310, Laws of Utah 2001

35 **59-2-1105**, as last amended by Chapters 221 and 310, Laws of Utah 2001



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

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

39 **59-2-1101. Exemption of certain property -- Proportional payments for**
40 **government-owned property -- County legislative body authority to adopt rules or**
41 **ordinances.**

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

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

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

52 (i) the unmarried surviving spouse of:

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

54 (B) a veteran who was killed in action or died in the line of duty as defined in Section
55 59-2-1104; or

56 (ii) a minor orphan of:

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

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

59 59-2-1104.

60 (2) The following property is exempt from taxation:

61 (a) property exempt under the laws of the United States;

62 (b) property of the state, school districts, and public libraries;

63 (c) property of counties, cities, towns, special districts, and all other political
64 subdivisions of the state, except as provided in Title 11, Chapter 13, Interlocal Cooperation
65 Act;

66 (d) property owned by a nonprofit entity which is used exclusively for religious,
67 charitable, or educational purposes;

68 (e) places of burial not held or used for private or corporate benefit;

69 (f) farm equipment and machinery;

70 (g) intangible property; and

71 (h) the ownership interest of an out-of-state public agency, as defined in Section
72 11-13-103, in property providing additional project capacity, as defined in Section 11-13-103,
73 on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.

74 (3) A county legislative body may adopt rules or ordinances to:

75 (a) effectuate the exemptions, deferrals, abatements, or other relief from taxation
76 provided in this part; and

77 (b) designate one or more persons to perform the functions given the county under this
78 part.

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

80 **59-2-1104. Definitions -- Veteran's exemption -- Amount of veteran's exemption.**

81 (1) As used in this section[;] and Section 59-2-1105:

82 (a) "claimant" means:

83 (i) a disabled veteran who files an application under Section 59-2-1105 for a veteran's
84 exemption;

85 (ii) the unmarried surviving spouse:

86 (A) of a:

87 (I) deceased disabled veteran; or

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

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

90 (iii) a minor orphan:

91 (A) of a:

92 (I) deceased disabled veteran; or

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

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

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

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

100 (d) "military entity" means:

101 (i) the federal Department of Veterans Affairs; or

102 (ii) a component of the armed forces of:

103 (A) the United States; or

104 (B) the state;

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

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

111 (g) "veteran's exemption" means a property tax exemption provided for in Subsection
112 (2).

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

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

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

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

- 121 (i) a disabled veteran; or
- 122 (ii) the unmarried surviving spouse and minor orphans of [any person described in
- 123 Subsection (2)(a)(i), or of a person who, during any war, international conflict, or military
- 124 training in the military service of the United States or of this state, was killed in action or died
- 125 in the line of duty as a result of the military service:] a:
- 126 (A) deceased disabled veteran; or
- 127 (B) veteran who was killed in action or died in the line of duty.
- 128 (b) Subsection (2)(a) applies to the following property:
- 129 (i) real property, including a residence;
- 130 (ii) tangible personal property; or
- 131 (iii) a combination of Subsections (2)(b)(i) and (ii).
- 132 ~~[(3) (a) Subject to Section 59-2-1105, the first \$82,500 of the total taxable value of~~
- 133 ~~property described in Subsection (3)(b) is exempt from taxation if the property is owned by:]~~
- 134 ~~[(i) a person who:]~~
- 135 ~~[(A) is 100% disabled; and]~~
- 136 ~~[(B) was disabled in the line of duty during any war, international conflict, or military~~
- 137 ~~training in the military service of the United States or of this state; or]~~
- 138 ~~[(ii) the unmarried surviving spouse and minor orphans of any person described in~~
- 139 ~~Subsection (3)(a)(i), or of a person who, during any war, international conflict, or military~~
- 140 ~~training in the military service of the United States or of this state, was killed in action or died~~
- 141 ~~in the line of duty as a result of the military service:]~~
- 142 ~~[(b) Subsection (3)(a) applies to the following property:]~~
- 143 ~~[(i) real property, including a residence;]~~
- 144 ~~[(ii) tangible personal property; or]~~
- 145 ~~[(iii) a combination of Subsections (3)(b)(i) and (ii).]~~
- 146 (c) Except as provided in Subsection (2)(d) or (e), the amount of taxable value of
- 147 property described in Subsection (2)(b) that is exempt under Subsection (2)(a) is equal to the
- 148 lesser of:
- 149 (i) the product of:
- 150 (A) the percentage of disability listed on the certificate described in Subsection
- 151 59-2-1105(3)(a); and

152 (B) \$82,500; or
 153 (ii) the total taxable value of the claimant's property described in Subsection (2)(b).
 154 (d) Notwithstanding Subsection (2)(c), a veteran's exemption may not be allowed under
 155 this Subsection (2) if the percentage of disability listed on the certificate described in
 156 Subsection 59-2-1105(3)(a) is less than 10%.

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

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

162 (B) the percentage of disability listed on the certificate described in Subsection
 163 59-2-1105(3)(a) for the deceased disabled veteran is 10% or more.

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

166 (A) \$82,500; or

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

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

169 **59-2-1105. Application for veteran's exemption -- Proof requirements -- County**
 170 **authority to make refunds.**

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

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

177 (i) the purchaser under the contract; and

178 (ii) obligated to pay the taxes on the property beginning January 1 of the year the
 179 exemption is claimed.

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

183 the property held in trust for which the claimant proves to the satisfaction of the county that:

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

186 (A) by:

187 (I) the claimant as grantor of the trust;

188 (II) a nonadverse party; or

189 (III) both the claimant and a nonadverse party; and

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

191 (I) to revoke;

192 (II) to terminate;

193 (III) to alter;

194 (IV) to amend; or

195 (V) to appoint;

196 (ii) the claimant is obligated to pay the taxes on that portion of the trust property

197 beginning January 1 of the year the claimant claims the exemption; and

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

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

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

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

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

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

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

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

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

214 (A) on or after January 1, 2004, a military entity issues a written decision that the:
215 (I) disabled veteran is disabled; or
216 (II) deceased disabled veteran with respect to whom the claimant applies for a veteran's
217 exemption was disabled at the time the deceased disabled veteran died; and
218 (B) the date the written decision described in Subsection (2)(b)(i)(A) takes effect is in
219 any year prior to the current calendar year;
220 (ii) subject to Subsections (2)(b)(iv) and (2)(d), for a claimant who applies for a
221 veteran's exemption on or after January 1, 2004, a county shall allow the claimant to amend the
222 application required by Subsection (2)(a) on or before September 1 of the year after the year the
223 claimant filed the application under Subsection (2)(a)(i)(B) if:
224 (A) on or after January 1, 2004, a military entity issues a written decision that the
225 percentage of disability has changed for the:
226 (I) disabled veteran; or
227 (II) deceased disabled veteran with respect to whom the claimant applies for a veteran's
228 exemption; and
229 (B) the date the written decision described in Subsection (2)(b)(ii)(A) takes effect is in
230 any year prior to the current calendar year;
231 (iii) subject to Subsections (2)(b)(iv) and (2)(d), for a claimant who applies for a
232 veteran's exemption on or after January 1, 2004, a county shall extend the deadline for filing
233 the application required by Subsection (2)(a) to September 1 of the year after the year the
234 claimant would otherwise be required to file the application under Subsection (2)(a)(i)(B) if the
235 county legislative body determines that:
236 (A) the claimant or a member of the claimant's immediate family had an illness or
237 injury that prevented the claimant from filing the application on or before the deadline for
238 filing the application established in Subsection (2)(a)(i)(B);
239 (B) a member of the claimant's immediate family died during the calendar year the
240 claimant was required to file the application under Subsection (2)(a)(i)(B);
241 (C) the claimant was not physically present in the state for a time period of at least six
242 consecutive months during the calendar year the claimant was required to file the application
243 under Subsection (2)(a)(i)(B); or
244 (D) the failure of the claimant to file the application on or before the deadline for filing

245 the application established in Subsection (2)(a)(i)(B):

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

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

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

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

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

253 (A) the United States; or

254 (B) this state; or

255 (ii) other satisfactory evidence of eligible military service.

256 ~~[(3) If the application is made by a veteran who served in the military of the United~~
257 ~~States or of this state prior to January 1, 1921, or by the unmarried surviving spouse or minor~~
258 ~~orphan of that veteran, a certificate from the Department of Veterans Affairs, or from any other~~
259 ~~source required by the county, showing the percentage of disability of the veteran shall~~
260 ~~accompany the application.]~~

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

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

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

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

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

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

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

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

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

283 (A) "immediate family"; or

284 (B) "physically present"; or

285 (iii) for purposes of Subsection (2)(b)(iii), prescribe the circumstances under which the
286 failure of a claimant to file an application on or before the deadline for filing the application
287 established in Subsection (2)(a)(i)(B):

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

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

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

292 (A) issued by a military entity; and

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

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

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

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

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

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

306 (I) disabled veteran; or

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

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

313 (c) For a claimant amending an application in accordance with Subsection (2)(b)(ii),
 314 the claimant shall provide to the county a statement issued by a military entity listing the date
 315 the written decision described in Subsection (2)(b)(ii)(A) takes effect.

316 [~~(7)~~] (4) (a) For purposes of this Subsection [~~(7)~~] (4):

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

318 (A) for which [~~an~~] a veteran's exemption is granted by a county [~~under Section~~
 319 59-2-1104]; and

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

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

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

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

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

330 Section 4. **Retrospective operation.**

331 This bill has retrospective operation to January 1, 2004.

Legislative Review Note

as of 2-11-04 3:43 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 HB0133

Property Tax-Veteran's Exemption

18-Feb-04

5:10 PM

State Impact

Passage of this bill would increase costs to local government. The fiscal impact would be dependent upon the number of veterans or family members claiming the exemption.

Individual and Business Impact

Impacted individuals could receive a benefit of approximately \$388.

Office of the Legislative Fiscal Analyst