

1 **RESIDENTIAL PROPERTY TAX EXEMPTION**

2 2004 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: David L. Thomas**

5 Howard A. Stephenson

6

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Property Tax Act to amend residential property tax provisions.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines "household";
- 13 ▶ grants rulemaking authority to the Utah State Tax Commission;
- 14 ▶ provides that the residential property tax exemption is limited to one primary
- 15 residence per household;
- 16 ▶ addresses the application of the residential property tax exemption with respect to
- 17 an owner of multiple residential properties located within the state; and
- 18 ▶ makes technical changes.

19 **Monies Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 This bill takes effect on January 1, 2005.

23 This bill provides a coordination clause.

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **59-2-102**, as last amended by Chapter 113, Laws of Utah 2003

27 **59-2-103**, as last amended by Chapter 275, Laws of Utah 1995



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

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

59-2-102. Definitions.

As used in this chapter and title:

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

(2) "Air charter service" means an air carrier operation which requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(3) "Air contract service" means an air carrier operation available only to customers who engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

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

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

(6) "Assessment roll" means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

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

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

(a) any commercial vehicle, trailer, or semitrailer which is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for

59 transportation as a company car or vanpool vehicle; and

60 (c) vehicles which are:

61 (i) especially constructed for towing or wrecking, and which are not otherwise used to
62 transport goods, merchandise, or people for compensation;

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

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

65 (iv) used or licensed in this state for use as ambulances or hearses;

66 (v) especially designed and used for garbage and rubbish collection; or

67 (vi) used exclusively to transport students or their instructors to or from any private,
68 public, or religious school or school activities.

69 (9) (a) Except as provided in Subsection (9)(b), for purposes of Section 59-2-801,

70 "designated tax area" means a tax area created by the overlapping boundaries of only the

71 following taxing entities:

72 (i) a county; and

73 (ii) a school district.

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

76 (i) the taxing entities described in Subsection (9)(a); and

77 (ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a)
78 and the boundaries of the city or town are identical; or

79 (B) a special service district if the boundaries of the school district under Subsection
80 (9)(a) are located entirely within the special service district.

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

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

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

88 (i) \$5,000; or

89 (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the

90 previous fiscal year.

91 (11) (a) "Escaped property" means any property, whether personal, land, or any
92 improvements to the property, subject to taxation and is:

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

95 (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to
96 comply with the reporting requirements of this chapter; or

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

99 (b) Property which is undervalued because of the use of a different valuation
100 methodology or because of a different application of the same valuation methodology is not
101 "escaped property."

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

109 (13) "Farm machinery and equipment," for purposes of the exemption provided under
110 Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed
111 handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage
112 tools, scales, combines, spreaders, sprayers, haying equipment, and any other machinery or
113 equipment used primarily for agricultural purposes; but does not include vehicles required to be
114 registered with the Motor Vehicle Division or vehicles or other equipment used for business
115 purposes other than farming.

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

118 (15) "Geothermal resource" means:

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

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

123 (16) (a) For purposes of Section 59-2-103:

124 (i) "household" means the association of persons who live in the same dwelling,
125 sharing its furnishings, facilities, accommodations, and expenses; and

126 (ii) "household" includes married individuals that have established domiciles at
127 separate locations within the state.

128 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
129 commission may make rules defining the term "domicile."

130 [~~16~~] (17) "Improvements" includes all buildings, structures, fixtures, fences, and
131 improvements erected upon or affixed to the land, whether the title has been acquired to the
132 land or not.

133 [~~17~~] (18) "Intangible property" means:

134 (a) property that is capable of private ownership separate from tangible property,
135 including:

136 (i) moneys;

137 (ii) credits;

138 (iii) bonds;

139 (iv) stocks;

140 (v) representative property;

141 (vi) franchises;

142 (vii) licenses;

143 (viii) trade names;

144 (ix) copyrights; and

145 (x) patents; or

146 (b) a low-income housing tax credit.

147 [~~18~~] (19) "Low-income housing tax credit" means:

148 (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;

149 or

150 (b) a low-income housing tax credit under:

151 (i) Section 59-7-607; or

152 (ii) Section 59-10-129.

153 [~~19~~] (20) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and
154 uranium.

155 [~~20~~] (21) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
156 valuable mineral.

157 [~~21~~] (22) "Mining" means the process of producing, extracting, leaching, evaporating,
158 or otherwise removing a mineral from a mine.

159 [~~22~~] (23) (a) "Mobile flight equipment" means tangible personal property that is:

160 (i) owned or operated by an:

161 (A) air charter service;

162 (B) air contract service; or

163 (C) airline; and

164 (ii) (A) capable of flight;

165 (B) attached to an aircraft that is capable of flight; or

166 (C) contained in an aircraft that is capable of flight if the tangible personal property is
167 intended to be used:

168 (I) during multiple flights;

169 (II) during a takeoff, flight, or landing; and

170 (III) as a service provided by an air charter service, air contract service, or airline.

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

173 (A) at regular intervals; and

174 (B) with an engine that is attached to the aircraft.

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

177 [~~23~~] (24) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal,
178 salts, sand, rock, gravel, and all carboniferous materials.

179 [~~24~~] (25) "Personal property" includes:

180 (a) every class of property as defined in Subsection [~~25~~] (26) which is the subject of
181 ownership and not included within the meaning of the terms "real estate" and "improvements";

182 (b) gas and water mains and pipes laid in roads, streets, or alleys;

183 (c) bridges and ferries; and

184 (d) livestock which, for the purposes of the exemption provided under Section
185 59-2-1112, means all domestic animals, honeybees, poultry, fur-bearing animals, and fish.

186 [~~25~~] (26) (a) "Property" means property that is subject to assessment and taxation
187 according to its value.

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

189 [~~26~~] (27) "Public utility," for purposes of this chapter, means the operating property
190 of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline
191 company, electrical corporation, telephone corporation, sewerage corporation, or heat
192 corporation where the company performs the service for, or delivers the commodity to, the
193 public generally or companies serving the public generally, or in the case of a gas corporation
194 or an electrical corporation, where the gas or electricity is sold or furnished to any member or
195 consumers within the state for domestic, commercial, or industrial use. Public utility also
196 means the operating property of any entity or person defined under Section 54-2-1 except water
197 corporations.

198 [~~27~~] (28) "Real estate" or "real property" includes:

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

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

203 (c) improvements.

204 [~~28~~] (29) "Residential property," for the purposes of the reductions and adjustments
205 under this chapter, means any property used for residential purposes as a primary residence. It
206 does not include property used for transient residential use or condominiums used in rental
207 pools.

208 [~~29~~] (30) For purposes of Subsection 59-2-801(1)(e), "route miles" means the number
209 of miles calculated by the commission that is:

210 (a) measured in a straight line by the commission; and

211 (b) equal to the distance between a geographical location that begins or ends:

212 (i) at a boundary of the state; and

213 (ii) where an aircraft:

214 (A) takes off; or

215 (B) lands.

216 [~~30~~] (31) (a) "State-assessed commercial vehicle" means:

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

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

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

224 [~~31~~] (32) "Taxable value" means fair market value less any applicable reduction
225 allowed for residential property under Section 59-2-103.

226 [~~32~~] (33) "Tax area" means a geographic area created by the overlapping boundaries
227 of one or more taxing entities.

228 [~~33~~] (34) "Taxing entity" means any county, city, town, school district, special taxing
229 district, or any other political subdivision of the state with the authority to levy a tax on
230 property.

231 [~~34~~] (35) "Tax roll" means a permanent record of the taxes charged on property, as
232 extended on the assessment roll and may be maintained on the same record or records as the
233 assessment roll or may be maintained on a separate record properly indexed to the assessment
234 roll. It includes tax books, tax lists, and other similar materials.

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

236 **59-2-103. Rate of assessment of property -- Residential property.**

237 (1) All tangible taxable property located within the state shall be assessed and taxed at
238 a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless
239 otherwise provided by law.

240 (2) [~~Beginning~~] Subject to Subsections (3) and (4), beginning on January 1, 1995, the
241 fair market value of residential property located within the state shall be reduced by 45%,
242 representing a residential exemption allowed under Utah Constitution Article XIII, Section 2[;
243 ~~Utah Constitution~~].

244 (3) No more than one acre of land per residential unit may qualify for the residential

245 exemption.

246 (4) (a) Except as provided in Subsection (4)(b)(ii), beginning on January 1, 2005, the
247 residential exemption in Subsection (2) is limited to one primary residence per household.

248 (b) An owner of multiple residential properties located within the state is allowed a
249 residential exemption under Subsection (2) for:

250 (i) subject to Subsection (4)(a), the primary residence of the owner; and

251 (ii) each residential property that is the primary residence of a tenant.

252 Section 3. **Effective date.**

253 This bill takes effect on January 1, 2005.

254 Section 4. **Coordinating S.B. 120 with S.B. 78.**

255 If this S.B. 120 and S.B 78, Exemptions to Residential Property Tax, both pass, it is the
256 intent of the Legislature that the Office of Legislative Research and General Counsel shall
257 prepare the database so that:

258 (1) Subsection 59-2-103(2) shall read:

259 "(2) Subject to Subsection (3), the fair market value of residential property located
260 within the state is subject to the following residential exemptions:

261 (a) subject to Subsection (4), beginning on January 1, 1995, 45% of the fair market
262 value of a primary residence located within the state is exempt; and

263 (b) subject to Section 59-2-1115, beginning on January 1, 2005, 25% of up to the first
264 \$100,000 of the fair market value of a qualifying secondary residence located within the state is
265 exempt."; and

266 (2) Subsection 59-2-103(4) shall read:

267 "(4) (a) Except as provided in Subsection (4)(b)(ii), beginning on January 1, 2005, the
268 residential exemption in Subsection (2)(a) is limited to one primary residence per household.

269 (b) An owner of multiple residential properties located within the state is allowed a
270 residential exemption under Subsection (2)(a) for:

271 (i) subject to Subsection (4)(a), the primary residence of the owner; and

272 (ii) each residential property that is the primary residence of the tenant."

Legislative Review Note

as of 1-20-04 9:42 AM

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 SB0120

Residential Property Tax Exemption

28-Jan-04

10:49 AM

State Impact

No significant fiscal impact.

Individual and Business Impact

No significant fiscal impact.

Office of the Legislative Fiscal Analyst