

PROPERTY TAX EXEMPTION AMENDMENTS

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends the Property Tax Act to provide for a proportional property tax for certain property that is eligible for a property tax exemption.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that, retroactive to January 1, 2004, when property is acquired by a nonprofit entity and used exclusively for religious, charitable, or educational purposes, the nonprofit entity shall only be required to collect and pay a proportional tax based on the amount of time that the property was not owned by the nonprofit entity;
 - ▶ provides that, for property acquired after December 31, 2005, when property ceases to qualify for a charitable exemption or a government exemption because of a change in the ownership of the property, the new owner shall pay a proportional tax based upon the period of time:
 - beginning on the day that the new owner acquired the property; and
 - ending on the last day of the calendar year during which the new owner acquired the property;
 - ▶ modifies the deadlines:
 - for applying for a property tax exemption for property owned by a nonprofit entity that is used exclusively for religious, charitable, or educational purposes;



- 28 • for a county board of equalization to hold a hearing and render a decision on a
 29 property tax exemption; and
- 30 • for a county board of equalization to send a copy of the decision described in the
 31 previous paragraph to the person that applied for the exemption; and
- 32 ▶ makes technical changes.

33 **Monies Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 This bill provides an immediate effective date.

37 This bill provides retrospective operation.

38 **Utah Code Sections Affected:**

39 AMENDS:

40 **59-2-1101**, as last amended by Chapter 333, Laws of Utah 2004

41 **59-2-1102**, as last amended by Chapter 169, Laws of Utah 2002

42

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

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

45 **59-2-1101. Exemption of certain property -- Proportional payments for certain**
 46 **property -- County legislative body authority to adopt rules or ordinances.**

47 (1) For purposes of this section:

48 (a) "charitable exemption" means a property tax exemption under Subsection (3)(d),
 49 for property owned by a nonprofit entity that is used exclusively for religious, charitable, or
 50 educational purposes;

51 (b) "government exemption" means a property tax exemption provided under
 52 Subsection (3)(a), (b), or (c); and

53 (c) "tax relief" means an exemption, deferral, or abatement that is authorized by this
 54 part.

55 ~~[(1)] (2) (a) Except as provided in Subsection [(1)] (2)(b) or (c), [the exemptions;~~
 56 ~~deferrals, and abatements authorized by this part] tax relief may be allowed only if the claimant~~
 57 ~~is the owner of the property as of January 1 of the year the exemption is claimed.~~

58 (b) Notwithstanding Subsection ~~[(1)] (2)(a), [if the claimant is a federal, state, or~~

59 ~~political subdivision entity under Subsection (2)(a), (b), or (c), the entity]~~ a claimant shall
 60 collect and pay a proportional tax based upon the length of time that the property was not
 61 owned by the ~~[entity.]~~ claimant if:

62 (i) the claimant is a federal, state, or political subdivision entity described in
 63 Subsection (3)(a), (b), or (c); or

64 (ii) pursuant to Subsection (3)(d):

65 (A) the claimant is a nonprofit entity; and

66 (B) the property is used exclusively for religious, charitable, or educational purposes.

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

71 (i) the unmarried surviving spouse of:

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

73 (B) a veteran who was killed in action or died in the line of duty as defined in Section
 74 59-2-1104; or

75 (ii) a minor orphan of:

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

77 (B) a veteran who was killed in action or died in the line of duty as defined in Section
 78 59-2-1104.

79 ~~[(2)]~~ (3) The following property is exempt from taxation:

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

81 (b) property of:

82 (i) the state[;];

83 (ii) school districts[;]; and

84 (iii) public libraries;

85 (c) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

86 (i) counties[;];

87 (ii) cities[;];

88 (iii) towns[;];

89 (iv) special districts[;]; and

90 (v) all other political subdivisions of the state[~~except as provided in Title 11, Chapter~~
91 ~~13, Interlocal Cooperation Act~~];

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

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

95 (f) farm equipment and machinery;

96 (g) intangible property; and

97 (h) the ownership interest of an out-of-state public agency, as defined in Section
98 11-13-103[~~7~~];

99 (i) if that ownership interest is in property providing additional project capacity, as
100 defined in Section 11-13-103[~~7~~]; and

101 (ii) on which a fee in lieu of ad valorem property tax is payable under Section
102 11-13-302.

103 (4) Subject to Subsection (5), if property that is allowed a charitable exemption or a
104 government exemption ceases to qualify for the exemption because of a change in the
105 ownership of the property, the new owner of the property shall pay a proportional tax based
106 upon the period of time:

107 (a) beginning on the day that the new owner acquired the property; and

108 (b) ending on the last day of the calendar year during which the new owner acquired
109 the property.

110 (5) Notwithstanding Subsection (4), the proportional tax described in Subsection (4):

111 (a) is subject to any charitable exemption or government exemption that the property is
112 entitled to under the new ownership of the property; and

113 (b) applies only to property that is acquired after December 31, 2005.

114 [~~3~~] (6) A county legislative body may adopt rules or ordinances to:

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

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

119 Section 2. Section 59-2-1102 is amended to read:

120 **59-2-1102. Determination of exemptions by board of equalization -- Appeal --**

121 **Application for exemption -- Annual statement -- Exceptions.**

122 (1) (a) For property assessed under Part 3, County Assessment, the county board of
123 equalization may, after giving notice in a manner prescribed by rule, determine whether certain
124 property within the county is exempt from taxation.

125 (b) The decision of the county board of equalization described in Subsection (1)(a)
126 shall:

127 (i) be in writing; and

128 (ii) include:

129 (A) a statement of facts; and

130 (B) the statutory basis for its decision.

131 (c) [~~A~~] Except as provided in Subsection (11)(a), a copy of the decision described in
132 Subsection (1)(a) shall be sent on or before May 15 to the person [~~or organization~~] applying for
133 the exemption.

134 (2) The county board of equalization shall notify an owner of exempt property that has
135 previously received an exemption but failed to file an annual statement in accordance with
136 Subsection (9)(c), of the county board of equalization's intent to revoke the exemption on or
137 before April 1.

138 (3) (a) Except as provided in Subsection (8) and subject to Subsection (9), a reduction
139 may not be made under this part in the value of property and an exemption may not be granted
140 under this part unless the party affected or the party's agent:

141 (i) makes and files with the county board of equalization a written application for the
142 reduction or exemption, verified by signed statement; and

143 (ii) appears before the county board of equalization and shows facts upon which it is
144 claimed the reduction should be made, or exemption granted.

145 (b) Notwithstanding Subsection (9), the county board of equalization may waive:

146 (i) the application or personal appearance requirements of Subsection (3)(a), (4)(b), or
147 (9)(a); or

148 (ii) the annual statement requirements of Subsection (9)(c).

149 (4) (a) Before the county board of equalization grants any application for exemption or
150 reduction, the county board of equalization may examine [~~on~~] under oath the person or agent
151 making the application.

152 (b) Except as provided in Subsection (3)(b), a reduction may not be made or exemption
153 granted unless the person or the agent making the application attends and answers all questions
154 pertinent to the inquiry.

155 (5) ~~Upon~~ For the hearing ~~of~~ on the application, the county board of equalization
156 may subpoena any witnesses, and hear and take any evidence in relation to the pending
157 application.

158 (6) ~~The~~ Except as provided in Subsection (11)(b), the county board of equalization
159 shall hold hearings and render a written decision to determine any exemption on or before May
160 1 in each year.

161 (7) Any property owner dissatisfied with the decision of the county board of
162 equalization regarding any reduction or exemption may appeal to the commission under
163 Section 59-2-1006.

164 (8) Notwithstanding Subsection (3)(a), a county board of equalization may not require
165 an owner of property to file an application in accordance with this section in order to claim an
166 exemption for the property under the following:

- 167 (a) Subsections 59-2-1101~~(2)~~(3)(a) through (c);
- 168 (b) Subsection 59-2-1101~~(2)~~(3)(f) or (g);
- 169 (c) Section 59-2-1110;
- 170 (d) Section 59-2-1111;
- 171 (e) Section 59-2-1112;
- 172 (f) Section 59-2-1113; or
- 173 (g) Section 59-2-1114.

174 (9) (a) Except as provided in Subsections (3)(b) and (9)(b), for property described in
175 Subsection 59-2-1101~~(2)~~(3)(d) or (e), a county board of equalization shall, consistent with
176 Subsection (10), require an owner of that property to file an application in accordance with this
177 section in order to claim an exemption for that property.

178 (b) Notwithstanding Subsection (9)(a), a county board of equalization may not require
179 an owner of property described in Subsection 59-2-1101~~(2)~~(3)(d) or (e) to file an application
180 under Subsection (9)(a) if:

- 181 (i) (A) the owner filed an application under Subsection (9)(a); or
- 182 (B) the county board of equalization waived the application requirements in accordance

183 with Subsection (3)(b);

184 (ii) the county board of equalization determines that the owner may claim an
185 exemption for that property; and

186 (iii) the exemption described in Subsection (9)(b)(ii) is in effect.

187 (c) (i) Except as provided in Subsection (3)(b), for the time period that an owner is
188 granted an exemption in accordance with this section for property described in Subsection
189 59-2-1101[~~(2)~~](3)(d) or (e), a county board of equalization shall require the owner to file an
190 annual statement on a form prescribed by the commission establishing that the property
191 continues to be eligible for the exemption.

192 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
193 the commission shall make rules providing:

194 (A) the form for the annual statement required by Subsection (9)(c)(i);

195 (B) the contents of the form for the annual statement required by Subsection (9)(c)(i);

196 and

197 (C) procedures and requirements for making the annual statement required by
198 Subsection (9)(c)(i).

199 (iii) The commission shall make the form described in Subsection (9)(c)(ii)(A)
200 available to counties.

201 (10) (a) For purposes of this Subsection (10), "charitable exemption" is as defined in
202 Section 59-2-1101.

203 (b) (i) For purposes of Subsection (1)(a), and except as provided in Subsections
204 (10)(b)(ii) and (iii), when a person acquires property on or after January 1 that qualifies for a
205 charitable exemption, that person may apply for the charitable exemption on or before the later
206 of:

207 (A) the day set by rule as the deadline for filing a property tax exemption application;

208 or

209 (B) 30 days after the day on which the property is acquired.

210 (ii) Notwithstanding Subsection (10)(b)(i), a person who acquires property on or after
211 January 1, 2004, and before January 1, 2005, that qualifies for a charitable exemption, may
212 apply for the charitable exemption for the 2004 calendar year on or before September 30, 2005.

213 (iii) Notwithstanding Subsection (10)(b)(i), a person who acquires property on or after

214 January 1, 2005, and before January 1, 2006, that qualifies for a charitable exemption, may
215 apply for the charitable exemption for the 2005 calendar year on or before the later of:

216 (A) September 30, 2005; or

217 (B) 30 days after the day on which the property is acquired.

218 (11) (a) Notwithstanding Subsection (1)(c), if an application for an exemption is filed
219 under Subsection (10), a county board of equalization shall send a copy of the decision
220 described in Subsection (1)(c) to the person applying for the exemption on or before the later
221 of:

222 (i) May 15; or

223 (ii) 45 days after the day on which the application for the exemption is filed.

224 (b) Notwithstanding Subsection (6), if an application for an exemption is filed under
225 Subsection (10), a county board of equalization shall hold the hearing and render the decision
226 described in Subsection (6) on or before the later of:

227 (i) May 1; or

228 (ii) 30 days after the day on which the application for the exemption is filed.

229 **Section 3. Effective date.**

230 If approved by two-thirds of all the members elected to each house, this bill takes effect
231 upon approval by the governor, or the day following the constitutional time limit of Utah
232 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
233 the date of veto override.

234 **Section 4. Retrospective operation.**

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

Legislative Review Note
as of 1-17-05 2:48 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

State Impact

Based on available data any fiscal impact is expected to be minimal.

Individual and Business Impact

Some entities will benefit, others will see a fiscal impact upon the sale or purchase of property involving a non-profit organization.

Office of the Legislative Fiscal Analyst