

PROPERTY TAX EXEMPTION FOR VETERANS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mark A. Wheatley

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Property Tax Act relating to exemptions for veterans.

Highlighted Provisions:

This bill:

- ▶ creates a property tax exemption for certain honorably discharged veterans and their unmarried surviving spouses;
- ▶ modifies the application process for veterans' exemptions;
- ▶ defines terms; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a contingent effective date of January 1, 2007 if H.J.R. 5, 2006 General Session, is approved at the next regular general election.

Utah Code Sections Affected:

AMENDS:

59-2-1104, as last amended by Chapter 237, Laws of Utah 2005

59-2-1105, as last amended by Chapter 333, Laws of Utah 2004

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



Section 1. 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) "adjusted taxable value limit" means:

(i) for the year 2005, \$200,000; and

(ii) for each year after 2005, the amount of the adjusted taxable value limit for the previous year, plus an amount calculated by multiplying the amount of the adjusted taxable value limit for the previous year by the actual percent change in the consumer price index during the previous calendar year;

(b) "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; and

(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;

(iv) an honorably discharged veteran who files an application under Section 59-2-1105 for an honorably discharged veteran's exemption; or

(v) the unmarried surviving spouse:

(A) of a deceased honorably discharged veteran; and

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

(c) "consumer price index" is as described in Section 1(f)(4), Internal Revenue Code, and defined in Section 1(f)(5), Internal Revenue Code;

(d) "deceased disabled veteran" means a deceased person who was a disabled veteran

at the time the person died;

(e) "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;

(f) "honorably discharged veteran" means:

(i) except as provided in Subsection (1)(f)(ii), an individual who:

(A) has served on active duty in the military service of the United States or the state for at least 180 consecutive days; and

(B) has been separated or retired from the service described in Subsection (1)(f)(i)(A) under honorable conditions; or

(ii) an individual who:

(A) incurs a service-related injury or disability in the line of duty whether or not that person completed 180 days of active duty in the military service of the United States or the state; and

(B) has been separated under honorable conditions;

(g) "honorably discharged veteran's exemption" means the property tax exemption provided for in Subsection (3);

~~[(f)]~~ (h) "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;

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

~~[(h)]~~ (j) "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

~~[(i)]~~ (k) "veteran's exemption" means a property tax exemption provided for in Subsection (2).

(2) (a) 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 property described in Subsection (2)(b) is owned by:

- (i) a disabled veteran; or
- (ii) the unmarried surviving spouse or a minor orphan of 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) the claimant's primary residence;
- (ii) tangible personal property that:
 - (A) is held exclusively for personal use; and
 - (B) is not used in a trade or business; or
- (iii) a combination of Subsections (2)(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:

- (i) as described in Subsection (2)(f), if the property is owned by:
 - (A) a disabled veteran;
 - (B) the unmarried surviving spouse of a deceased disabled veteran; or
 - (C) a minor orphan of a deceased disabled veteran; or
- (ii) equal to the total taxable value of the claimant's property described in Subsection (2)(b) if the property is owned by:

(A) the unmarried surviving spouse of a veteran who was killed in action or died in the line of duty; or

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

(d) Notwithstanding Subsection (2)(c)(i), 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) Notwithstanding Subsection (2)(c)(i), a claimant who is the unmarried surviving spouse or minor orphan of a deceased disabled veteran may claim a veteran's exemption for the total value of the property described in Subsection (2)(b) if:

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

(ii) 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.

(f) Except as provided in Subsection (2)(g), the amount of the taxable value of the property described in Subsection (2)(b) that is exempt under Subsection (2)(c)(i) is equal to the percentage of disability listed on the certificate described in Subsection 59-2-1105(3)(a) multiplied by the adjusted taxable value limit.

(g) Notwithstanding Subsection (2)(f), the amount of the taxable value of the property described in Subsection (2)(b) that is exempt under Subsection (2)(c)(i) may not be greater than the taxable value of the property described in Subsection (2)(b).

(3) (a) The amount of taxable value of the property described in Subsection (3)(b) is exempt from taxation if the property described in Subsection (3)(b) is owned by:

(i) an honorably discharged veteran; or

(ii) the unmarried surviving spouse of an honorably discharged veteran.

(b) The honorably discharged veteran's exemption shall:

(i) be calculated by exempting \$4,000 from the taxable value of the claimant's primary residence; and

(ii) be made after making any reduction required by Section 59-2-103.

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

(d) The exemption allowed by this Subsection (3) is limited to one primary residence per claimant.

(e) The honorably discharged veteran's exemption may be claimed in addition to any other exemption allowed by this section.

Section 2. 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) A veteran's exemption or honorably discharged 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 or honorably discharged veteran's exemption 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 a veteran's exemption or honorably discharged veteran's exemption is claimed, the claimant may claim the portion of the veteran's exemption or honorably discharged 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) A claimant applying for a veteran's exemption or honorably discharged 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 or honorably discharged veteran's exemption in accordance with this section.

(ii) A county shall provide a claimant who files an application for a veteran's

exemption or honorably discharged 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, or an honorably discharged veteran's exemption on or after January 1, 2007, 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,~~] for a veteran's exemption on or after January 1, 2004, or for a honorably discharged veteran's exemption on or after January 1, 2007, 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,~~] for a veteran's exemption on or after January 1, 2004, or for a honorably discharged veteran's exemption on or after January 1, 2007, 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, or for a honorably discharged veteran's exemption or on or after January 1, 2007, 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

(iv) a county may extend the deadline for filing an application or amending an application under this Subsection (2) 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 or honorably discharged 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.

(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)~~)(iii), 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) Subject to Subsection (3)(a)(iii), a claimant who files an application for an honorably discharged veteran's exemption on the basis of the honorably discharged veteran's service-related injury or disability in the line of duty shall have on file with the county a statement:

(A) issued by a military entity; and

(B) that states that the honorably discharged veteran incurred a service-related injury or disability in the line of duty.

~~[(ii)]~~ (iii) If a claimant has on file with the county the statement described in Subsection (3)(a)(i) or (ii), the county may not require the claimant to file another statement described in Subsection (3)(a)(i) or (ii) 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.

(4) (a) For purposes of this Subsection (4):

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

(A) for which a veteran's exemption or honorably discharged veteran's exemption is granted by a county; and

(B) for the calendar year for which the veteran's exemption or honorably discharged 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 claimant paid for the calendar year for which the claimant is applying for the veteran's exemption or honorably discharged veteran's exemption; and

(B) the veteran's exemption or honorably discharged veteran's exemption the county granted for the calendar year described in Subsection (4)(a)(ii)(A).

(b) A county granting a veteran's exemption or honorably discharged veteran's exemption to a claimant shall refund to that claimant an amount equal to the amount by which the claimant's property taxes paid exceed the claimant's property taxes due, if that amount is \$1 or more.

Section 3. **Effective date.**

This bill provides a contingent effective date of January 1, 2007 if H.J.R. 5, 2006 General Session is approved at the next regular general election.

Legislative Review Note

as of 1-31-06 7:04 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