

**Representative Gage Froerer** proposes the following substitute bill:

**PROPERTY TAX - RESIDENTIAL**

**EXEMPTION**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gage Froerer**

Senate Sponsor: Dennis E. Stowell

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**LONG TITLE**

**General Description:**

This bill amends provisions of the Property Tax Act relating to the residential property tax exemption.

**Highlighted Provisions:**

This bill:

▶ amends the size of residential property that may qualify for a residential exemption due to a local zoning requirement for residential property or due to the covenants, conditions, and restrictions of a neighborhood, subdivision, or planned unit development;

▶ provides procedures to obtain a residential exemption for certain property owners with a primary residence with more than one acre of land;

▶ provides that a county assessor may require an owner of residential property to file a statement showing that the property qualifies for the residential exemption with the county assessor if:

- the residential property is sold; or
- the county assessor has reason to believe that the residential property no longer qualifies for the residential property tax exemption;



- 26           ▶ provides a penalty for falsely obtaining a residential property tax exemption;
- 27           ▶ defines terms; and
- 28           ▶ makes technical changes.

29 **Monies Appropriated in this Bill:**

30           None

31 **Other Special Clauses:**

32           This bill takes effect on January 1, 2010.

33 **Utah Code Sections Affected:**

34 AMENDS:

35           **59-2-103**, as last amended by Laws of Utah 2004, Chapters 90 and 281

36           **59-2-103.5**, as last amended by Laws of Utah 2008, Chapter 382



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

39           Section 1. Section **59-2-103** is amended to read:

40           **59-2-103. Rate of assessment of property -- Residential property.**

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

44           (2) Subject to Subsections (3) and (4), beginning on January 1, 1995, the fair market  
45 value of residential property located within the state shall be reduced by 45%, representing a  
46 residential exemption allowed under Utah Constitution Article XIII, Section 2.

47           (3) ~~[(No)]~~ (a) Except as provided in Subsection (3)(b), no more than one acre of land  
48 per residential unit may qualify for the residential exemption.

49           (b) A residential unit with land having a parcel size of more than one acre of land  
50 qualifies for a residential exemption if the residential unit is:

51           (i) prohibited from being subdivided due to:

52           (A) a zoning ordinance adopted by a:

53           (I) county in accordance with Title 17, Chapter 27a, Part 5, Land Use Ordinances; or

54           (II) city or town in accordance with Title 10, Chapter 9a, Part 5, Land Use Ordinances;

55 or

56           (B) the covenants, conditions, and restrictions of a neighborhood, subdivision, or

57 planned unit development; and

58 (ii) six acres or less.

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

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

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

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

65 Section 2. Section **59-2-103.5** is amended to read:

66 **59-2-103.5. Procedures to obtain an exemption for residential property -- Penalty**  
67 **for falsely obtaining a residential exemption.**

68 (1) (a) Subject to the other provisions of this section, [~~a county legislative body may by~~  
69 ~~ordinance require that~~] in order for residential property to be allowed a residential exemption in  
70 accordance with Section 59-2-103, a county assessor may require an owner of [~~the~~] residential  
71 property [~~shall~~] to file with the county [board of equalization] assessor a statement[:] described  
72 in Subsection (2) if:

73 (i) the residential property is sold; or

74 (ii) the county assessor determines that there is reason to believe that the residential  
75 property no longer qualifies for the residential exemption in accordance with Section 59-2-103.

76 (b) Notwithstanding Subsection (1)(a) and subject to the other provisions of this  
77 section, an owner of residential property that is more than one acre but six acres or less may be  
78 allowed a residential exemption in accordance with Subsection 59-2-103(3)(b) if the owner  
79 files the following with the county assessor:

80 (i) a statement described in Subsection (2); and

81 (ii) if the owner's residential property qualifies for a residential exemption because the  
82 owner is unable to subdivide the residential property due to restrictions contained in the  
83 applicable covenants, conditions, and restrictions, a copy of the covenants, conditions, and  
84 restrictions recorded with the county recorder.

85 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
86 purposes of this section, the commission shall promulgate a rule to broadly define the term  
87 "sold" to include in the definition one or more instances where no legal transfer of title occurs.

88 (2) The statement described in Subsection (1) shall:

89 (a) be on a form prescribed by the commission by rule;

90 (b) be signed by all of the owners of the residential property;

91 (c) ~~[certifying]~~ certify that the residential property is residential property; and

92 (d) ~~[containing]~~ contain other information as required by the commission by rule.

93 ~~[(2)(a)]~~ (3) Subject to Section 59-2-103 and except as provided in Subsection ~~[(3)]~~ (4),

94 a county ~~[board of equalization]~~ assessor shall allow an owner described in Subsection (1) ~~[a~~

95 ~~residential exemption for the residential property described in Subsection (1) if: (i) the county~~

96 ~~legislative body enacts the ordinance described in Subsection (1); and (ii) the county board of~~

97 ~~equalization]~~ a residential exemption for the owner's residential property if the county assessor

98 determines that the requirements of ~~[Subsection (1)]~~ this section are met.

99 ~~[(b) A county board of equalization may require an owner of the residential property~~  
100 ~~described in Subsection (1) to file the statement described in Subsection (1) only if:]~~

101 ~~[(i) that residential property was ineligible for the residential exemption authorized~~  
102 ~~under Section 59-2-103 during the calendar year immediately preceding the calendar year for~~  
103 ~~which the owner is seeking to claim the residential exemption for that residential property;]~~

104 ~~[(ii) an ownership interest in that residential property changes; or]~~

105 ~~[(iii) the county board of equalization determines that there is reason to believe that~~  
106 ~~that residential property no longer qualifies for the residential exemption in accordance with~~  
107 ~~Section 59-2-103;]~~

108 ~~[(3) Notwithstanding Subsection (2)(a), if a county legislative body does not enact an~~  
109 ~~ordinance requiring an owner to file a statement in accordance with this section, the county~~  
110 ~~board of equalization:]~~

111 ~~[(a) may not require an owner to file a statement for residential property to be eligible~~  
112 ~~for a residential exemption in accordance with Section 59-2-103; and]~~

113 ~~[(b)]~~ (4) A county assessor shall allow a residential exemption for an owner's  
114 residential property in accordance with Section 59-2-103~~[-]~~ if:

115 (a) the county assessor does not require the owner to file a statement in accordance  
116 with Subsection (1)(a); and

117 (b) the size of the owner's residential property is one acre of land or less.

118 (5) If a county assessor does not allow a property owner a residential exemption in

119 accordance with this section, the property owner may file an application to appeal with the  
120 county board of equalization in accordance with the procedures prescribed in Section  
121 59-2-1004.

122 (6) (a) A property owner shall pay a penalty described in Subsection (6)(b) for each tax  
123 year the property owner:

124 (i) knowingly files a statement described in Subsection (2) with false information; or

125 (ii) falsely claims the owner's property is residential property that qualifies for a  
126 residential exemption in Section 59-2-103.

127 (b) The penalty described in Subsection (6)(a) is an amount equal to the sum of:

128 (i) the property tax that would have been due on the property without the residential  
129 exemption for the tax year in which:

130 (A) the property owner received the residential exemption; and

131 (B) violated Subsection (6)(a); and

132 (ii) 10% of the amount described in Subsection (6)(b)(i).

133 [~~(4)~~] (7) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
134 Act, the commission shall make rules providing:

135 (i) the form for the statement described in Subsection [~~(1)~~] (2); and

136 (ii) the contents of the form for the statement described in Subsection [~~(1)~~] (2).

137 (b) The commission shall make the form described in Subsection [~~(4)~~] (7)(a) available  
138 to counties.

139 **Section 3. Effective date.**

140 This bill takes effect on January 1, 2010.

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**H.B. 246 2nd Sub. (Gray) - Property Tax - Residential Exemption**

**Fiscal Note**

2009 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill could lead to a shift of tax burden from the residential property eligible under this exemption to other residential and business properties not eligible for the exemption.

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