

1 **ARMED FORCES PROPERTY TAX EXEMPTION**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Luz Robles**

5 House Sponsor: Stephen E. Sandstrom

7 **LONG TITLE**

8 **General Description:**

9 This bill expands a property tax exemption related to military members.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ defines terms and modifies definitions;

13 ▶ expands a property tax exemption related to military members to include certain

14 members of the armed forces who performed ~~§~~→ **qualifying active duty** ←~~§~~ military service ~~§~~→ [

14a **in a combat zone in**

15 **the prior year]** ←~~§~~ ; and

16 ▶ makes technical and conforming changes.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 This bill provides a contingent effective date of January 1, 2013.

21 **Utah Code Sections Affected:**

22 **AMENDS:**

23 **59-2-1104**, as last amended by Laws of Utah 2011, Chapter 366

24 **59-2-1105**, as last amended by Laws of Utah 2011, Chapter 366

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

27 Section 1. Section **59-2-1104** is amended to read:



28 **59-2-1104. Definitions -- Armed Forces exemption -- Amount of Armed Forces**
 29 **exemption.**

30 (1) As used in this section and Section 59-2-1105:

31 (a) "Active component of the United States Armed Forces" is as defined in Section
 32 59-10-1027.

33 [~~(a)~~] (b) "Adjusted taxable value limit" means:

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

35 (ii) for each year after 2005, the amount of the adjusted taxable value limit for the
 36 previous year, plus an amount calculated by multiplying the amount of the adjusted taxable
 37 value limit for the previous year by the actual percent change in the Consumer Price Index
 38 during the previous calendar year.

39 [~~(b)~~] (c) "Claimant" means:

40 (i) a veteran with a disability who files an application under Section 59-2-1105 for a
 41 veteran's exemption;

42 (ii) the unmarried surviving spouse:

43 (A) of a:

44 (I) deceased veteran with a disability; or

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

46 (B) who files an application under Section 59-2-1105 for a veteran's exemption; [~~or~~]

47 (iii) a minor orphan:

48 (A) of a:

49 (I) deceased veteran with a disability; or

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

51 (B) who files an application under Section 59-2-1105 for a veteran's exemption[~~;~~]; or

52 (iv) a member of an active component of the United States Armed Forces or a reserve
 53 component of the United States Armed Forces who performed ~~§~~→ **qualifying active duty**

53a ←~~§~~ **military service** ~~§~~→ **[in a combat**

54 zone in the prior year] ←~~§~~ .

55 (d) "Combat zone" is as defined in Section 59-10-1027.

56 [~~(c)~~] (e) "Consumer price index" is as described in Section 1(f)(4), Internal Revenue
 57 Code, and defined in Section 1(f)(5), Internal Revenue Code.

58 [~~(d)~~] (f) "Deceased veteran with a disability" means a deceased person who was a

59 veteran with a disability at the time the person died.

60 ~~[(e)]~~ (g) "Military entity" means:

61 (i) the federal Department of Veterans Affairs; ~~[(or)]~~

62 ~~[(ii) a component of the armed forces of:]~~

63 ~~[(A) the United States; or]~~

64 ~~[(B) the state.]~~

65 (ii) an active component of the United States Armed Forces; or

66 (iii) a reserve component of the United States Armed Forces.

67 ~~§→ [(h) "Military service in a combat zone" is as defined in Section 59-10-1027.]~~

67a **(h) "Qualifying active duty military service" means:**

67b **(i) at least 200 days in a calendar year, regardless of whether consecutive, of active duty**

67c **military service outside the state in an active component of the United States Armed Forces or**

67d **a reserve component of the United States Armed Forces; or**

67e **(ii) the completion of at least 200 consecutive days of active duty military service outside**

67f **the state:**

67g **(A) in an active component of the United States Armed Forces or a reserve**

67h **component of the United States Armed Forces; and**

67i **(B) that began in the prior year, if those days of active duty military service**

67j **outside the state in the prior year were not counted as qualifying active duty military service**

67k **for purposes of this section or Section 59-2-1105 in the prior year. ←§**

68 (i) "Reserve component of the United States Armed Forces" is as defined in Section

69 59-10-1027.

70 ~~[(f)]~~ (j) "Residence" is as defined in Section 59-2-1202, except that a rented dwelling is

71 not considered to be a residence.

72 ~~[(g)]~~ (k) "Veteran who was killed in action or died in the line of duty" means a person

73 who was killed in action or died in the line of duty in ~~[the military service of the United States~~

74 ~~or the state]~~ an active component of the United States Armed Forces or a reserve component of

75 the United States Armed Forces, regardless of whether that person had a disability at the time

76 that person was killed in action or died in the line of duty.

77 ~~[(h)]~~ (l) "Veteran with a disability" means a person with a disability who, during

78 military training or a military conflict, acquired a disability in the line of duty in ~~[the military~~

79 ~~service of the United States or the state]~~ an active component of the United States Armed

80 Forces or a reserve component of the United States Armed Forces.

81 ~~[(i)]~~ (m) "Veteran's exemption" means a property tax exemption provided for in

82 Subsection (2).

83 (2) (a) The amount of taxable value of the property described in Subsection (2)(b) is
84 exempt from taxation as calculated under Subsections (2)(c) through (e) if the property
85 described in Subsection (2)(b) is owned by:

86 (i) a veteran with a disability; [~~or~~]

87 (ii) the unmarried surviving spouse or a minor orphan of a:

88 (A) deceased veteran with a disability; or

89 (B) veteran who was killed in action or died in the line of duty[-]; or

90 (iii) a member of an active component of the United States Armed Forces or a reserve
 91 component of the United States Armed Forces who performed ~~§~~→ **qualifying active duty**
 91a ~~←~~§ military service ~~§~~→ **[in a combat**
 92 **zone in the prior year]** ~~←~~§ .

93 (b) Subsection (2)(a) applies to the following property:
 94 (i) the claimant's primary residence;
 95 (ii) tangible personal property that:
 96 (A) is held exclusively for personal use; and
 97 (B) is not used in a trade or business; or
 98 (iii) a combination of Subsections (2)(b)(i) and (ii).
 99 (c) Except as provided in Subsection (2)(d) or (e), the amount of taxable value of
 100 property described in Subsection (2)(b) that is exempt under Subsection (2)(a) is:
 101 (i) as described in Subsection (2)(f), if the property is owned by:
 102 (A) a veteran with a disability;
 103 (B) the unmarried surviving spouse of a deceased veteran with a disability; or
 104 (C) a minor orphan of a deceased veteran with a disability; or
 105 (ii) equal to the total taxable value of the claimant's property described in Subsection
 106 (2)(b) if the property is owned by:
 107 (A) the unmarried surviving spouse of a veteran who was killed in action or died in the
 108 line of duty; [or]
 109 (B) a minor orphan of a veteran who was killed in action or died in the line of duty[-];
 110 or

111 (C) a member of an active component of the United States Armed Forces or a reserve
 112 component of the United States Armed Forces who performed ~~§~~→ **qualifying active duty**
 112a ~~←~~§ military service ~~§~~→ **[in a combat**
 113 **zone in the prior year]** ~~←~~§ .

114 (d) (i) Notwithstanding Subsection (2)(c)(i) and subject to Subsection (2)(d)(ii), a
 115 veteran's exemption except for a claimant described in Subsection (2)(a)(iii) may not be
 116 allowed under this Subsection (2) if the percentage of disability listed on the certificate
 117 described in Subsection 59-2-1105(3)(a) is less than 10%.

118 (ii) A veteran with a disability is considered to have a 100% disability, regardless of
 119 the percentage of disability listed on a certificate described in Subsection 59-2-1105(3)(a), if
 120 the United States Department of Veterans' Affairs certifies the veteran in the classification of

121 individual unemployability.

122 (e) Notwithstanding Subsection (2)(c)(i), a claimant who is the unmarried surviving
123 spouse or minor orphan of a deceased veteran with a disability may claim [~~a veteran's~~] an
124 exemption for the total value of the property described in Subsection (2)(b) if:

125 (i) the deceased veteran with a disability served in the military service of the United
126 States or the state prior to January 1, 1921; and

127 (ii) the percentage of disability listed on the certificate described in Subsection
128 59-2-1105(3)(a) for the deceased veteran with a disability is 10% or more.

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

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

136 (h) For purposes of this section and Section 59-2-1105, a person who is honorably
137 discharged from military service of [~~the United States or the state~~] an active component of the
138 United States Armed Forces or a reserve component of the United States Armed Forces:

139 (i) is presumed to be a citizen of the United States; and

140 (ii) [~~shall~~] may not be required to provide additional proof of citizenship to establish
141 that the [~~veteran~~] person is a citizen of the United States.

142 (3) The Department of Veterans' Affairs created in Section 71-8-2 shall, through an
143 informal hearing held in accordance with Title 63G, Chapter 4, Administrative Procedures Act,
144 resolve each dispute arising under this section concerning a veteran's status as a veteran with a
145 disability.

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

147 **59-2-1105. Application for Armed Forces exemption -- Rulemaking authority --**
148 **Statement -- County authority to make refunds.**

149 (1) (a) Except as provided in Subsection 59-2-1101(2)(c), [~~a veteran's~~] an exemption
150 under Section 59-2-1104 may be allowed only if the interest of the claimant is on record on
151 January 1 of the year the exemption is claimed.

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

155 (i) the purchaser under the contract; and
156 (ii) obligated to pay the taxes on the property beginning January 1 of the year the
157 exemption is claimed.

158 (c) If the claimant is the grantor of a trust holding title to real or tangible personal
159 property on which [~~a veteran's~~] an exemption under Section 59-2-1104 is claimed, the claimant
160 may claim the portion of the [~~veteran's~~] exemption under Section 59-2-1104 and be treated as
161 the owner of that portion of the property held in trust for which the claimant proves to the
162 satisfaction of the county that:

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

165 (A) by:

166 (I) the claimant as grantor of the trust;
167 (II) a nonadverse party; or
168 (III) both the claimant and a nonadverse party; and

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

170 (I) to revoke;
171 (II) to terminate;
172 (III) to alter;
173 (IV) to amend; or
174 (V) to appoint;

175 (ii) the claimant is obligated to pay the taxes on that portion of the trust property
176 beginning January 1 of the year the claimant claims the exemption; and
177 (iii) the claimant meets the requirements under this part for the exemption.

178 (2) (a) (i) A claimant applying for [~~a veteran's~~] an exemption under [~~this section~~]
179 Section 59-2-1104 shall file an application:

180 (A) with the county in which that [~~person~~] claimant resides; and

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

183 (ii) A county shall provide a claimant who files an application for [~~a veteran's~~] an
184 exemption in accordance with this section with a receipt:

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

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

188 (b) Notwithstanding Subsection (2)(a)(i)(B) or (2)(e):

189 (i) subject to Subsection (2)(b)(iv), for a claimant who applies for [~~a veteran's~~] an
190 exemption under Section 59-2-1104 on or after January 1, 2004, a county shall extend the
191 deadline for filing the application required by Subsection (2)(a) to September 1 of the year after
192 the year the claimant would otherwise be required to file the application under Subsection
193 (2)(a)(i)(B) if:

194 (A) on or after January 1, 2004, a military entity issues a written decision that the:

195 (I) veteran has a disability; or

196 (II) deceased veteran with a disability with respect to whom the claimant applies for a
197 veteran's exemption had a disability at the time the deceased veteran with a disability died; and

198 (B) the date the written decision described in Subsection (2)(b)(i)(A) takes effect is in
199 any year prior to the current calendar year;

200 (ii) subject to Subsections (2)(b)(iv) and (2)(d), for a claimant who applies for [~~a~~
201 ~~veteran's~~] an exemption under Section 59-2-1104 on or after January 1, 2004, a county shall
202 allow the claimant to amend the application required by Subsection (2)(a) on or before
203 September 1 of the year after the year the claimant filed the application under Subsection
204 (2)(a)(i)(B) if:

205 (A) on or after January 1, 2004, a military entity issues a written decision that the
206 percentage of disability has changed for the:

207 (I) veteran with a disability; or

208 (II) deceased veteran with a disability with respect to whom the claimant applies for [~~a~~
209 ~~veteran's~~] the exemption; and

210 (B) the date the written decision described in Subsection (2)(b)(ii)(A) takes effect is in
211 any year prior to the current calendar year;

212 (iii) subject to Subsections (2)(b)(iv) and (2)(d), for a claimant who applies for [~~a~~
213 ~~veteran's~~] an exemption under Section 59-2-1104 on or after January 1, 2004, a county shall

214 extend the deadline for filing the application required by Subsection (2)(a) to September 1 of
 215 the year after the year the claimant would otherwise be required to file the application under
 216 Subsection (2)(a)(i)(B) if the county legislative body determines that:

217 (A) the claimant or a member of the claimant's immediate family had an illness or
 218 injury that prevented the claimant from filing the application on or before the deadline for
 219 filing the application established in Subsection (2)(a)(i)(B);

220 (B) a member of the claimant's immediate family died during the calendar year the
 221 claimant was required to file the application under Subsection (2)(a)(i)(B);

222 (C) the claimant was not physically present in the state for a time period of at least six
 223 consecutive months during the calendar year the claimant was required to file the application
 224 under Subsection (2)(a)(i)(B); or

225 (D) the failure of the claimant to file the application on or before the deadline for filing
 226 the application established in Subsection (2)(a)(i)(B):

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

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

229 (iv) a county may extend the deadline for filing an application or amending an
 230 application under this Subsection (2) until December 31 if the county finds that good cause
 231 exists to extend the deadline.

232 (c) The following shall accompany the initial application for ~~[a veteran's]~~ an exemption
 233 under Section 59-2-1104:

234 (i) a copy of the veteran's certificate of discharge from ~~[the]~~ military service ~~[of:]; or~~
 235 ~~[(A) the United States; or]~~

236 ~~[(B) this state; or]~~

237 (ii) other satisfactory evidence of eligible military service, including ~~§~~ **orders for**
 237a **qualifying active duty** ~~←§~~ military service ~~§~~ **[in**
 238 **a combat zone]** ~~←§~~ , if applicable.

239 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 240 commission may by rule:

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

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

244 (A) "immediate family"; or

245 (B) "physically present"; or
 246 (iii) for purposes of Subsection (2)(b)(iii), prescribe the circumstances under which the
 247 failure of a claimant to file an application on or before the deadline for filing the application
 248 established in Subsection (2)(a)(i)(B):

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

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

251 (e) ~~[H]~~ Except as provided in Subsection (2)(g), if a claimant has on file with the
 252 county the application described in Subsection (2)(a), the county may not require the claimant
 253 to file another application described in Subsection (2)(a) unless:

254 (i) the claimant applies all or a portion of an exemption ~~[allowed by this section]~~ under
 255 Section 59-2-1104 to any tangible personal property;

256 (ii) the percentage of disability has changed for the:

257 (A) veteran with a disability; or

258 (B) deceased veteran with a disability with respect to whom a claimant applies for a
 259 veteran's exemption under this section;

260 (iii) the veteran with a disability dies;

261 (iv) the claimant's ownership interest in the claimant's primary residence changes;

262 (v) the claimant's occupancy of the primary residence for which the claimant claims an
 263 exemption under Section 59-2-1104 changes; or

264 (vi) the claimant who files an application for ~~[a veteran's]~~ an exemption under Section
 265 59-2-1104 with respect to a deceased veteran with a disability or veteran who was killed in
 266 action or died in the line of duty is a person other than the claimant who filed the application
 267 described in Subsection (2)(a) for ~~[a veteran's]~~ the exemption:

268 (A) for the calendar year immediately preceding the current calendar year; and

269 (B) with respect to that deceased veteran with a disability or veteran who was killed in
 270 action or died in the line of duty.

271 (f) The county may verify that the residential property for which the claimant claims an
 272 exemption under Section 59-2-1104 is the claimant's primary residence.

273 (g) A member of an active component of the United States Armed Forces or reserve
 274 component of the United States Armed Forces who performed ~~§~~ **→ qualifying active duty**

274a ~~←~~ ~~§~~ military service ~~§~~ **→ [in a combat**

275 zone in the prior year] ~~←~~ ~~§~~ shall ~~§~~ **→ [annually]** :

275a (i) ← ~~§~~ file the application described in Subsection (2)(a) ~~§~~ **→ [:] in the year after the year**
 275b during which the member completes the qualifying active duty military service; and

275c **(ii) if the member meets the requirements of Section 59-2-1104 and this section to**
275d **receive an exemption under Section 59-2-1104, claim one exemption only in the year the**
275e **member files the application described in Subsection (2)(g)(i).** ←§

276 (3) (a) (i) Subject to Subsection (3)(a)(ii), a claimant except for a claimant described in
277 Subsection (2)(g) who files an application for [~~a veteran's~~] an exemption under Section
278 59-2-1104 shall have on file with the county a statement:

279 (A) issued by a military entity; and

280 (B) listing the percentage of disability for the veteran with a disability or deceased
281 veteran with a disability with respect to whom a claimant applies for [~~a veteran's~~] the
282 exemption.

283 (ii) If a claimant except for a claimant described in Subsection (2)(g) has on file with
284 the county the statement described in Subsection (3)(a)(i), the county may not require the
285 claimant to file another statement described in Subsection (3)(a)(i) unless:

286 (A) the claimant who files an application under this section for [~~a veteran's~~] an
287 exemption under Section 59-2-1104 with respect to a deceased veteran with a disability or
288 veteran who was killed in action or died in the line of duty is a person other than the claimant
289 who filed the statement described in Subsection (3)(a)(i) for [~~a veteran's~~] the exemption:

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

291 (II) with respect to that deceased veteran with a disability or veteran who was killed in
292 action or died in the line of duty; or

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

294 (I) veteran with a disability; or

295 (II) deceased veteran with a disability with respect to whom the claimant applies for [~~a~~
296 ~~veteran's~~] an exemption under [this section] Section 59-2-1104.

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

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

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

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

306 (A) for which [~~a veteran's~~] an exemption under Section 59-2-1104 is granted by a

307 county; and

308 (B) for the calendar year for which the [veteran's] exemption is granted.

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

310 (A) the amount of the property taxes the claimant paid for the calendar year for which
311 the claimant is applying for [~~the veteran's~~] an exemption under Section 59-2-1104; and

312 (B) the [veteran's] exemption the county granted for the calendar year described in
313 Subsection (4)(a)(ii)(A).

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

317 Section 3. **Effective date.**

318 This bill takes effect on January 1, 2013 if the amendment to the Utah Constitution
319 proposed by S.J.R. 8, Joint Resolution on Property Tax Exemption for Military Personnel,
320 2012 General Session, passes the Legislature and is approved by a majority of those voting on
321 it at the next regular general election.

Legislative Review Note
as of 1-16-12 6:16 PM

Office of Legislative Research and General Counsel