

**URBAN FARMING ASSESSMENT ACT**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne L. Niederhauser**

House Sponsor: Derek E. Brown

---

---

**LONG TITLE**

**General Description:**

This bill enacts provisions related to urban farming in counties of the first class.

**Highlighted Provisions:**

This bill:

- ▶ provides that land in a county of the first class that is used for urban farming may be assessed based on its value for agricultural purposes;
- ▶ provides for a 10-year rollback of taxes if the land ceases to be eligible for assessment under the urban farming provisions; and
- ▶ enacts provisions relating to the assessment of land used for urban farming.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect on January 1, 2013.

**Utah Code Sections Affected:**

ENACTS:

**59-2-1701**, Utah Code Annotated 1953

**59-2-1702**, Utah Code Annotated 1953

**59-2-1703**, Utah Code Annotated 1953

**59-2-1704**, Utah Code Annotated 1953

**59-2-1705**, Utah Code Annotated 1953

**59-2-1706**, Utah Code Annotated 1953

**59-2-1707**, Utah Code Annotated 1953

- 30           **59-2-1708**, Utah Code Annotated 1953
- 31           **59-2-1709**, Utah Code Annotated 1953
- 32           **59-2-1710**, Utah Code Annotated 1953
- 33           **59-2-1711**, Utah Code Annotated 1953
- 34           **59-2-1712**, Utah Code Annotated 1953



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

37           Section 1. Section **59-2-1701** is enacted to read:

38                                   **Part 17. Urban Farming Assessment Act**

39           **59-2-1701. Title.**

40           This part is known as the "Urban Farming Assessment Act."

41           Section 2. Section **59-2-1702** is enacted to read:

42           **59-2-1702. Definitions.**

43           As used in this part:

44           (1) "Actively devoted to urban farming" means that:

45           (a) land is devoted to active urban farming activities;

46           (b) the land produces greater than 50% of the average agricultural production per acre:

47           (i) as determined under Section 59-2-1703; and

48           (ii) for the given type of land and the given county or area.

49           (2) "Rollback tax" means the tax imposed under Section 59-2-1705.

50           (3) (a) Subject to Subsection (3)(b), "urban farming" means cultivating food:

51           (i) with a reasonable expectation of profit from the sale of the food; and

52           (ii) from irrigated land located in a county of the first class.

53           (b) "Urban farming" does not include:

54           (i) cultivating food derived from an animal; or

55           (ii) grazing.

56           (4) "Withdrawn from this part" means that land that has been assessed under this part is

57 no longer assessed under this part or eligible for assessment under this part for any reason

58 including that:

59 (a) an owner voluntarily requests that the land be withdrawn from this part;

60 (b) the land is no longer actively devoted to urban farming;

61 (c) (i) the land has a change in ownership; and

62 (ii) (A) the new owner fails to apply for assessment under this part as required by

63 Section 59-2-1707; or

64 (B) an owner applies for assessment under this part, as required by Section 59-2-1707,

65 but the land does not meet the requirements of this part to be assessed under this part;

66 (d) (i) the legal description of the land changes; and

67 (ii) (A) an owner fails to apply for assessment under this part, as required by Section

68 59-2-1707; or

69 (B) an owner applies for assessment under this part, as required by Section 59-2-1707,

70 but the land does not meet the requirements of this part to be assessed under this part;

71 (e) the owner of the land fails to file an application as provided in Section 59-2-1707;

72 or

73 (f) except as provided in Section 59-2-1703, the land fails to meet a requirement of

74 Section 59-2-1703.

75 Section 3. Section **59-2-1703** is enacted to read:

76 **59-2-1703. Qualifications for urban farming assessment.**

77 (1) (a) For general property tax purposes, land may be assessed on the basis of the  
78 value that the land has for agricultural use if the land:

79 (i) is actively devoted to urban farming;

80 (ii) is at least two contiguous acres, but less than five acres, in size; and

81 (iii) has been actively devoted to urban farming for at least two successive years

82 immediately preceding the tax year for which the land is assessed under this part.

83 (b) Land that is not actively devoted to urban farming may not be assessed as provided

84 in Subsection (1)(a), even if the land is part of a parcel that includes land actively devoted to

85 urban farming.

86           (2) (a) In determining whether land is actively devoted to urban farming, production  
87 per acre for a given county or area and a given type of land shall be determined by using the  
88 first applicable of the following:

- 89           (i) production levels reported in the current publication of Utah Agricultural Statistics;
- 90           (ii) current crop budgets developed and published by Utah State University; or
- 91           (iii) other acceptable standards of agricultural production designated by the  
92 commission by rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative  
93 Rulemaking Act, using:

94           (A) information provided annually to the commission by the county assessor in a  
95 county where urban farming occurs; and

96           (B) other information the commission determines is appropriate.

97           (b) A county assessor may not assess land actively devoted to urban farming on the  
98 basis of the value that the land has for agricultural use under this part unless an owner annually  
99 files documentation with the county assessor:

100           (i) on a form provided by the county assessor;

101           (ii) demonstrating to the satisfaction of the county assessor that the land meets the  
102 production levels required under this part; and

103           (iii) except as provided in Subsection 59-2-1707(2)(c)(i), no later than January 30 for  
104 each tax year in which the owner applies for assessment under this part.

105           (3) Notwithstanding Subsection (1)(a)(ii), a county board of equalization may grant a  
106 waiver of the acreage requirements of Subsection (1)(a)(ii):

107           (a) on appeal by an owner; and

108           (b) if the owner submits documentation to the county assessor demonstrating to the  
109 satisfaction of the county assessor that:

110           (i) the failure to meet the acreage requirements of Subsection (1)(a)(ii) arose solely as a  
111 result of an acquisition by a governmental entity by:

112           (A) eminent domain; or

113           (B) the threat or imminence of an eminent domain proceeding;

114 (ii) the land is actively devoted to urban farming; and  
115 (iii) no change occurs in the ownership of the land.

116 Section 4. Section **59-2-1704** is enacted to read:

117 **59-2-1704. Indicia of value for urban farming assessment -- Inclusion of fair**  
118 **market value on certain property tax notices.**

119 (1) The county assessor shall consider only those indicia of value that the land has for  
120 agricultural use as determined by the commission when assessing land:

121 (a) that meets the requirements of Section 59-2-1703 to be assessed under this part; and

122 (b) for which the owner has:

123 (i) made a timely application in accordance with Section 59-2-1707 for assessment  
124 under this part for the tax year for which the land is being assessed; and

125 (ii) obtained approval of the application described in Subsection (1)(b)(i) from the  
126 county assessor.

127 (2) In addition to the value determined in accordance with Subsection (1), the fair  
128 market value assessment shall be included on the notices described in:

129 (a) Section 59-2-919.1; and

130 (b) Section 59-2-1317.

131 (3) The county board of equalization shall review the agricultural use value and fair  
132 market value assessments each year as provided under Section 59-2-1001.

133 Section 5. Section **59-2-1705** is enacted to read:

134 **59-2-1705. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien --**  
135 **Interest -- Notice -- Collection -- Distribution -- Appeal to county board of equalization.**

136 (1) Except as provided in this section or Section 59-2-1710, land that is withdrawn  
137 from this part is subject to a rollback tax imposed as provided in this section.

138 (2) (a) An owner shall notify the county assessor that land is withdrawn from this part  
139 within 120 days after the day on which the land is withdrawn from this part.

140 (b) An owner who fails to notify the county assessor under Subsection (2)(a) that land  
141 is withdrawn from this part is subject to a penalty equal to the greater of:

142           (i) \$10; or  
143           (ii) 2% of the rollback tax due for the last year of the rollback period.  
144           (3) (a) The county assessor shall determine the amount of the rollback tax by  
145 computing the difference for the rollback period described in Subsection (3)(b) between:  
146           (i) the tax paid while the land was assessed under this part; and  
147           (ii) the tax that would have been paid had the property not been assessed under this  
148 part.  
149           (b) For purposes of this section, the rollback period is a time period that:  
150           (i) begins on the later of:  
151           (A) the date the land is first assessed under this part; or  
152           (B) 10 years preceding the day on which the county assessor mails the notice required  
153 by Subsection (5); and  
154           (ii) ends the day on which the county assessor mails the notice required by Subsection  
155 (5).  
156           (4) (a) The county treasurer shall:  
157           (i) collect the rollback tax; and  
158           (ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien  
159 on the property has been satisfied by:  
160           (A) preparing a document that certifies that the rollback tax lien on the property has  
161 been satisfied; and  
162           (B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder  
163 for recording.  
164           (b) The rollback tax collected under this section shall:  
165           (i) be paid into the county treasury; and  
166           (ii) be paid by the county treasurer to the various taxing entities pro rata in accordance  
167 with the property tax levies for the current year.  
168           (5) (a) The county assessor shall mail to an owner of the land that is subject to a  
169 rollback tax a notice that:

170 (i) the land is withdrawn from this part;  
171 (ii) the land is subject to a rollback tax under this section; and  
172 (iii) the rollback tax is delinquent if the owner of the land does not pay the tax within  
173 30 days after the day on which the county assessor mails the notice.

174 (b) (i) The rollback tax is due and payable on the day the county assessor mails the  
175 notice required by Subsection (5)(a).

176 (ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that  
177 is withdrawn from this part does not pay the rollback tax within 30 days after the day on which  
178 the county assessor mails the notice required by Subsection (5)(a).

179 (6) (a) Subject to Subsection (6)(b), the rollback tax and interest imposed under  
180 Subsection (7) are a lien on the land assessed under this part.

181 (b) The lien described in Subsection (6)(a) shall:

182 (i) arise upon the imposition of the rollback tax under this section;

183 (ii) end on the day on which the rollback tax and interest imposed under Subsection (7)  
184 are paid in full; and

185 (iii) relate back to the first day of the rollback period described in Subsection (3)(b).

186 (7) (a) A delinquent rollback tax under this section shall accrue interest:

187 (i) from the date of delinquency until paid; and

188 (ii) at the interest rate established under Section 59-2-1331 and in effect on January 1  
189 of the year in which the delinquency occurs.

190 (b) A rollback tax that is delinquent on September 1 of any year shall be included on  
191 the notice required by Section 59-2-1317, along with interest calculated on that delinquent  
192 amount through November 30 of the year in which the notice under Section 59-2-1317 is  
193 mailed.

194 (8) (a) Land that becomes ineligible for assessment under this part only as a result of an  
195 amendment to this part is not subject to the rollback tax if the owner of the land notifies the  
196 county assessor that the land is withdrawn from this part in accordance with Subsection (2).

197 (b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of

198 an event other than an amendment to this part, whether voluntary or involuntary, is subject to  
199 the rollback tax.

200 (9) Except as provided in Section 59-2-1710, land that becomes exempt from taxation  
201 under Utah Constitution Article XIII, Section 3, is not subject to the rollback tax if the land  
202 meets the requirements of Section 59-2-1703 to be assessed under this part.

203 (10) (a) Subject to Subsection (10)(b), an owner of land may appeal to the county  
204 board of equalization:

205 (i) a decision by a county assessor to withdraw land from assessment under this part; or  
206 (ii) the imposition of a rollback tax under this section.

207 (b) An owner shall file an appeal under Subsection (10)(a) no later than 45 days after  
208 the day on which the county assessor mails the notice required by Subsection (5).

209 Section 6. Section **59-2-1706** is enacted to read:

210 **59-2-1706. Land included as urban farming.**

211 (1) (a) Land under a structure used in or related to urban farming, including a barn,  
212 shed, silo, crib, or greenhouse, or under a facility used in or related to urban farming, including  
213 a lake, dam, pond, stream, or irrigation ditch, is included in determining the total area of land  
214 actively devoted to urban farming.

215 (b) The land described in Subsection (1)(a) shall be included in determining if the land  
216 meets the urban farming production requirements of Subsection 59-2-1703(2)(a).

217 (2) (a) Except as provided in this part, land under a residence and land used in  
218 connection with residential use may not be included in determining the total area of land  
219 actively devoted to urban farming.

220 (b) Land described in Subsection (2)(a) shall be valued, assessed, and taxed in  
221 accordance with this chapter other than this part.

222 Section 7. Section **59-2-1707** is enacted to read:

223 **59-2-1707. Application -- Signed statement -- Consent to creation of a lien --**  
224 **Consent to audit and review -- Notice.**

225 (1) For land to be assessed under this part, an owner of land eligible for assessment



226 under this part shall annually submit an application to the county assessor of the county in  
227 which the land is located.

228 (2) An application required by Subsection (1) shall:

229 (a) be on a form:

230 (i) approved by the commission; and

231 (ii) provided to an owner:

232 (A) by the county assessor; and

233 (B) at the request of an owner;

234 (b) provide for the reporting of information related to this part;

235 (c) be submitted by:

236 (i) May 1 of the tax year in which assessment under Subsection (1) is requested if the  
237 land was not assessed under this part in the year before the application is submitted; or

238 (ii) the date otherwise required by this part for land that before the application being  
239 submitted has been assessed under this part;

240 (d) be signed by all of the owners of the land that under the application would be  
241 assessed under this part;

242 (e) be accompanied by the prescribed fees made payable to the county recorder;

243 (f) include a certification by an owner that the facts set forth in the application or  
244 signed statement are true;

245 (g) include a statement that the application constitutes consent by the owners of the  
246 land to the creation of a lien upon the land as provided in this part; and

247 (h) be recorded by the county recorder.

248 (3) The application required by Subsection (2) constitutes consent by the owners of the  
249 land to the creation of a lien upon the land as provided in this part.

250 (4) (a) Except as provided in Subsections (1) and (2), a county assessor may not require  
251 an additional signed statement or application for assessment under this part.

252 (b) Notwithstanding Subsection (4)(a), a county shall require that an owner provide  
253 notice if land is withdrawn from this part as provided in Section 59-2-1705.

254 (5) A certification under Subsection (2)(f) is considered as if made under oath and  
255 subject to the same penalties as provided by law for perjury.

256 (6) (a) An owner applying for participation under this part or a purchaser or lessee who  
257 signs a statement under Subsection (7) is considered to have given consent to a field audit and  
258 review by:

259 (i) the commission;

260 (ii) the county assessor; or

261 (iii) the commission and the county assessor.

262 (b) The consent described in Subsection (6)(a) is a condition to the acceptance of an  
263 application or signed statement.

264 (7) An owner of land eligible for assessment under this part, because a purchaser or  
265 lessee actively devotes the land to agricultural use as required by Section 59-2-1703, may  
266 qualify the land for assessment under this part by submitting, with the application required  
267 under Subsection (2), a signed statement from that purchaser or lessee certifying those facts  
268 that would be necessary to meet the requirements of Section 59-2-1703 for assessment under  
269 this part.

270 Section 8. Section **59-2-1708** is enacted to read:

271 **59-2-1708. Change of ownership or legal description.**

272 (1) Subject to the other provisions of this section, land assessed under this part may  
273 continue to be assessed under this part if the land continues to comply with the requirements of  
274 this part, regardless of whether the land continues to have the same owner or legal description.

275 (2) Notwithstanding Subsection (1), land described in Subsection (1) is subject to the  
276 rollback tax as provided in Section 59-2-1705 if the land is withdrawn from this part.

277 (3) Notwithstanding Subsection (1), land is withdrawn from this part if:

278 (a) there is a change in:

279 (i) the ownership of the land; or

280 (ii) the legal description of the land; and

281 (b) after a change described in Subsection (3)(a):

- 282 (i) the land does not meet the requirements of Section 59-2-1703; or
- 283 (ii) an owner of the land fails to submit a new application for assessment as provided in
- 284 Section 59-2-1707.

285 (4) An application required by this section shall be submitted within 120 days after the  
286 day on which there is a change described in Subsection (3)(a).

287 Section 9. Section **59-2-1709** is enacted to read:

288 **59-2-1709. Separation of land.**

289 Separation of a part of the land that is being valued, assessed, and taxed under this part,  
290 either by conveyance or other action of the owner of the land, for a use other than urban  
291 farming, subjects the land that is separated to liability for the applicable rollback tax, but does  
292 not impair the continuance of urban farming valuation, assessment, and taxation for the  
293 remaining land if the remaining land continues to meet the requirements of this part.

294 Section 10. Section **59-2-1710** is enacted to read:

295 **59-2-1710. Acquisition of land by governmental entity -- Requirements --**  
296 **Rollback tax -- One-time in lieu fee payment -- Passage of title.**

297 (1) For purposes of this section, "governmental entity" means:

- 298 (a) the United States;
- 299 (b) the state;
- 300 (c) a political subdivision of the state, including a county, city, town, school district,
- 301 local district, or special service district; or
- 302 (d) an entity created by the state or the United States, including an agency, board,
- 303 bureau, commission, committee, department, division, institution, instrumentality, or office.

304 (2) (a) Except as provided in Subsections (3) and (4), land acquired by a governmental  
305 entity is subject to the rollback tax imposed by this part if:

- 306 (i) before the governmental entity acquires the land, the land is assessed under this
- 307 part; and
- 308 (ii) after the governmental entity acquires the land, the land does not meet the
- 309 requirements of Section 59-2-1703 for assessment under this part.

310 (b) A person dedicating a public right-of-way to a governmental entity shall pay the  
311 rollback tax imposed by this part if:

312 (i) a portion of the public right-of-way is located within a subdivision as defined in  
313 Section 10-9a-103; or

314 (ii) in exchange for the dedication, the person dedicating the public right-of-way  
315 receives money or other consideration.

316 (3) (a) Land acquired by a governmental entity is not subject to the rollback tax  
317 imposed by this part, but is subject to a one-time in lieu fee payment as provided in Subsection  
318 (3)(b), if:

319 (i) the governmental entity acquires the land by eminent domain;

320 (ii) (A) the land is under the threat or imminence of eminent domain proceedings; and

321 (B) the governmental entity provides written notice of the proceedings to the owner; or

322 (iii) the land is donated to the governmental entity.

323 (b) (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the  
324 governmental entity shall make a one-time in lieu fee payment:

325 (A) to the county treasurer of the county in which the land is located; and

326 (B) in an amount equal to the amount of rollback tax calculated under Section  
327 59-2-1705.

328 (ii) A governmental entity that acquires land under Subsection (3)(a)(i) or (ii) shall  
329 make a one-time in lieu fee payment to the county treasurer of the county in which the land is  
330 located:

331 (A) if the land remaining after the acquisition by the governmental entity meets the  
332 requirements of Section 59-2-1703, in an amount equal to the rollback tax under Section  
333 59-2-1705 on the land acquired by the governmental entity; or

334 (B) if the land remaining after the acquisition by the governmental entity is less than  
335 two acres, in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired  
336 by the governmental entity and the land remaining after the acquisition by the governmental  
337 entity.

338           (c) A county receiving an in lieu fee payment under Subsection (3)(b) shall distribute  
339 the revenues collected from the payment:

340           (i) to the taxing entities in which the land is located; and

341           (ii) in the same proportion as the revenue from real property taxes is distributed.

342           (4) If a governmental entity acquires land subject to assessment under this part, title to  
343 the land may not pass to the governmental entity until any tax, one-time in lieu fee payment,  
344 and applicable interest due under this part are paid to the county treasurer.

345           Section 11. Section **59-2-1711** is enacted to read:

346           **59-2-1711. Tax list and duplicate.**

347           The factual details to be shown on the assessor's tax list and duplicate with respect to  
348 land that is being valued, assessed, and taxed under this part are the same as those set forth by  
349 the assessor with respect to other taxable property in the county.

350           Section 12. Section **59-2-1712** is enacted to read:

351           **59-2-1712. Rules prescribed by commission.**

352           In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
353 commission may make rules and prescribe forms as necessary to administer this part.

354           Section 13. **Effective date.**

355           This bill takes effect on January 1, 2013.