

CHARITY HEALTH CARE AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to the property tax exemption for certain nonprofit health care organizations.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a nonprofit hospital or other health care related organization to comply with certain requirements to qualify for a property tax exemption;
- ▶ specifies the requirements for a nonprofit hospital or other health care organization to establish that property owned by the nonprofit hospital or other health care related organization is used exclusively for a charitable purpose;
- ▶ specifies procedures for computing a nonprofit hospital's or other health care related organization's total gift to the community;
- ▶ requires a nonprofit hospital or other health care related organization to make certain statements and submit certain forms to the county to be eligible for a property tax exemption; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



28 This bill provides a special effective date.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **59-2-1101**, as last amended by Laws of Utah 2015, Chapters 129 and 261

32 ENACTS:

33 **59-2-1117**, Utah Code Annotated 1953



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

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

37 **59-2-1101. Definitions -- Exemption of certain property -- Proportional payments**
38 **for certain property -- County legislative body authority to adopt rules or ordinances.**

39 (1) As used in this section:

40 (a) "Educational purposes" includes:

41 (i) the physical or mental teaching, training, or conditioning of competitive athletes by
42 a national governing body of sport recognized by the United States Olympic Committee that
43 qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

44 (ii) an activity in support of or incidental to the teaching, training, or conditioning
45 described in Subsection (1)(a)(i).

46 (b) "Exclusive use exemption" means a property tax exemption under Subsection
47 (3)(a)(iv), for property owned by a nonprofit entity used exclusively for religious, charitable, or
48 educational purposes.

49 (c) "Government exemption" means a property tax exemption provided under
50 Subsection (3)(a)(i), (ii), or (iii).

51 (d) "Nonprofit entity" includes an entity if the:

52 (i) entity is treated as a disregarded entity for federal income tax purposes;
53 (ii) entity is wholly owned by, and controlled under the direction of, a nonprofit entity;

54 and

55 (iii) net earnings and profits of the entity irrevocably inure to the benefit of a nonprofit
56 entity.

57 (e) "Nonprofit hospital or other health care related organization":

58 (i) means an organization that:

59 (A) is organized as an entity that qualifies as being exempt from federal income
60 taxation under Section 501(c)(3) of the Internal Revenue Code; and

61 (B) is organized to:

62 (I) provide hospital or nursing home care;

63 (II) promote health care; or

64 (III) provide health related assistance to the general public; and

65 (ii) includes a nonprofit entity that meets the requirements of Subsection (1)(e)(i)(B).

66 [~~e~~] (f) "Tax relief" means an exemption, deferral, or abatement that is authorized by
67 this part.

68 (2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if
69 the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

70 (b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional
71 tax based upon the length of time that the property was not owned by the claimant if:

72 (i) the claimant is a federal, state, or political subdivision entity described in
73 Subsection (3)(a)(i), (ii), or (iii); or

74 (ii) pursuant to Subsection (3)(a)(iv):

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

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

77 (c) Subsection (2)(a) does not apply to an exemption under Section 59-2-1104.

78 (3) (a) The following property is exempt from taxation:

79 (i) property exempt under the laws of the United States;

80 (ii) property of:

81 (A) the state;

82 (B) school districts; and

83 (C) public libraries;

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

85 (A) counties;

86 (B) cities;

87 (C) towns;

88 (D) local districts;

89 (E) special service districts; and

- 90 (F) all other political subdivisions of the state;
- 91 (iv) property owned by a nonprofit entity used exclusively for religious, charitable, or
- 92 educational purposes;
- 93 (v) places of burial not held or used for private or corporate benefit;
- 94 (vi) farm machinery and equipment;
- 95 (vii) a high tunnel, as defined in Section 10-9a-525;
- 96 (viii) intangible property; and
- 97 (ix) the ownership interest of an out-of-state public agency, as defined in Section

98 11-13-103:

99 (A) if that ownership interest is in property providing additional project capacity, as

100 defined in Section 11-13-103; and

101 (B) on which a fee in lieu of ad valorem property tax is payable under Section

102 11-13-302.

103 (b) For purposes of a property tax exemption for property of school districts under

104 Subsection (3)(a)(ii)(B), a charter school under Title 53A, Chapter 1a, Part 5, The Utah Charter

105 Schools Act, is considered to be a school district.

106 (4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or

107 a government exemption ceases to qualify for the exemption because of a change in the

108 ownership of the property:

109 (a) the new owner of the property shall pay a proportional tax based upon the period of

110 time:

111 (i) beginning on the day that the new owner acquired the property; and

112 (ii) ending on the last day of the calendar year during which the new owner acquired

113 the property; and

114 (b) the new owner of the property and the person from whom the new owner acquires

115 the property shall notify the county assessor, in writing, of the change in ownership of the

116 property within 30 days from the day that the new owner acquires the property.

117 (5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection

118 (4)(a):

119 (a) is subject to any exclusive use exemption or government exemption that the

120 property is entitled to under the new ownership of the property; and

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

122 (6) A county legislative body may adopt rules or ordinances to:

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

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

127 (7) A nonprofit hospital or other health care related organization shall comply with the
128 requirements specified in Section 59-2-1117 to qualify for a property tax exemption under
129 Subsection (3)(a)(iv).

130 Section 2. Section 59-2-1117 is enacted to read:

131 **59-2-1117. Exemption of property of a nonprofit hospital or other health care**
132 **related organization used for exclusively charitable purpose -- Determination of**
133 **exclusively charitable purpose.**

134 (1) As used in this section, "nonprofit hospital or other health care related
135 organization" means the same as that term is defined in Section 59-2-1101.

136 (2) Property owned by a nonprofit hospital or other health care related organization is
137 exempt from taxation if it meets the requirements of this section.

138 (3) To qualify for a property tax exemption under this section, the nonprofit hospital or
139 other health care related organization owning the property for which an exemption is sought
140 shall:

141 (a) demonstrate that its property is used exclusively for a charitable purpose;

142 (b) (i) for a nonprofit entity described in Subsection 59-2-1101(1)(e)(i), demonstrate
143 that its net earnings and donations do not benefit a private shareholder or individual; or

144 (ii) for a nonprofit entity described in Subsection 59-2-1101(1)(e)(ii), demonstrate that
145 the net earnings and profits of the entity irrevocably inure to the benefit of a nonprofit entity;

146 (c) ensure open access to medical services regardless of race, religion, gender, or
147 ability to pay;

148 (d) demonstrate that its policies reflect the public interest;

149 (e) annually establish that its total gift to the community exceeds its tax liability for
150 that year as determined in accordance with Subsection (4); and

151 (f) demonstrate that tax exemptions extended to satellite health care facilities and

152 centralized support facilities enhance and improve the nonprofit hospital's or other health care
153 related organization's mission.

154 (4) (a) A nonprofit hospital or other health care related organization shall annually
155 establish that its total gift to the community exceeds its tax liability by computing:

156 (i) the amount and value of the institution's unreimbursed care to medically indigent
157 persons or subsidized patients, as measured by computing the applicable Medicaid
158 reimbursement rate for the professional or facility services provided to a medically indigent
159 person or subsidized patient minus any payments received by the medically indigent person or
160 subsidized patient; and

161 (ii) the tax liability for that year, as measured by computing:

162 (A) the amount of property tax revenues that would be realized by assessing the
163 hospital's or other health care related organization's real and tangible personal property; plus

164 (B) the amount of income tax revenues that would be realized if the hospital or other
165 health care related organization was subject to the state's income tax on net earnings.

166 (b) In determining a nonprofit hospital's or other health care related organization's total
167 gift to the community, the following may not be included:

168 (i) the value of volunteer and community service rendered for and by the hospital or
169 other health care related organization;

170 (ii) the value of the difference between standard charges and actual reimbursement for
171 patients covered by Medicare, Medicaid, or other similar government entitlement programs;

172 (iii) the value of volunteer assistance donated by individual to a nonprofit hospital or
173 other health care related organization; or

174 (iv) the value of monetary donations given to a nonprofit hospital or other health care
175 related organization.

176 (5) (a) A nonprofit hospital or other health care related organization shall make a
177 statement that the nonprofit hospital's or other health care related organization's total gift to the
178 community exceeds its tax liability to the county to be eligible for a property tax exemption
179 under this section.

180 (b) (i) The commission shall develop a form for a nonprofit hospital or other health
181 care related organization to calculate, in accordance with this section, its total gift to the
182 community and its tax liability to determine whether the nonprofit hospital or other health care

183 related organization is eligible for a property tax exemption under this section.

184 (ii) As a condition of claiming a property tax exemption under this section, a taxpayer
185 shall complete and submit to the county the form described under Subsection (5)(b)(i).

186 (iii) The form filed under Subsection (5)(b)(ii) is subject to audit by the state auditor.

187 **Section 3. Effective date.**

188 This bill takes effect on January 1, 2019.

Legislative Review Note
Office of Legislative Research and General Counsel