

## HB0024S01 compared with HB0024

~~{deleted text}~~ shows text that was in HB0024 but was deleted in HB0024S01.

Inserted text shows text that was not in HB0024 but was inserted into HB0024S01.

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Representative Steve Eliason proposes the following substitute bill:

### PROPERTY TAX EXEMPTIONS, DEFERRALS, AND ABATEMENTS AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Steve Eliason**

Senate Sponsor: ~~{~~ Daniel McCay }

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#### LONG TITLE

~~{Committee Note:~~

~~—The Revenue and Taxation Interim Committee recommended this bill.~~

~~{~~ **General Description:**

This bill amends provisions related to property tax exemptions, deferrals, and abatements.

#### **Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ repeals outdated provisions related to property tax exemptions, deferrals, and abatements;

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- ▶ reorganizes, redrafts, and updates existing provisions related to property tax exemptions, deferrals, and abatements;
- ▶ broadens the appeal right for a person who is dissatisfied with a tax relief decision;
- ▶ ~~{allows an}~~expands the armed forces property tax exemption~~{regardless of when the claimant had ownership of the property during the year the exemption is claimed}~~; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill provides a special effective date.

### Utah Code Sections Affected:

#### AMENDS:

**59-2-1006**, as last amended by Laws of Utah 2013, Chapter 180

**59-2-1101**, as last amended by Laws of Utah 2018, Chapter 415

**59-2-1102**, as last amended by Laws of Utah 2015, Chapter 129

**59-2-1202**, as last amended by Laws of Utah 2017, Chapter 391

#### ENACTS:

**59-2-1801**, Utah Code Annotated 1953

**59-2-1802**, Utah Code Annotated 1953

**59-2-1803**, Utah Code Annotated 1953

**59-2-1804**, Utah Code Annotated 1953

**59-2-1805**, Utah Code Annotated 1953

**59-2-1901**, Utah Code Annotated 1953

**59-2-1902**, Utah Code Annotated 1953

**59-2-1903**, Utah Code Annotated 1953

**59-2-1904**, Utah Code Annotated 1953

**59-2-1905**, Utah Code Annotated 1953

#### REPEALS:

**59-2-1104**, as last amended by Laws of Utah 2018, Chapter 39

**59-2-1105**, as last amended by Laws of Utah 2017, Chapter 189

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59-2-1107, as last amended by Laws of Utah 2001, Chapters 221 and 310

59-2-1108, as last amended by Laws of Utah 2013, Chapter 19

59-2-1109, as last amended by Laws of Utah 2018, Chapter 310

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

Section 1. Section **59-2-1006** is amended to read:

**59-2-1006. Appeal to commission -- Duties of auditor -- Decision by commission.**

(1) Any person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property, or the determination of any exemption in which the person has an interest, or a tax relief decision made under designated decision-making authority as described in Section 59-2-1101, may appeal that decision to the commission by filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30 days after the final action of the county board or entity with designated decision-making authority described in Section 59-2-1101.

(2) The auditor shall:

(a) file one notice with the commission;

(b) certify and transmit to the commission:

(i) the minutes of the proceedings of the county board of equalization or entity with designated decision-making authority for the matter appealed;

(ii) all documentary evidence received in that proceeding; and

(iii) a transcript of any testimony taken at that proceeding that was preserved; and

(c) if the appeal is from a hearing where an exemption was granted or denied, certify and transmit to the commission the written decision of:

(i) the board of equalization as required by Section 59-2-1102; or

(ii) the entity with designated decision-making authority.

(3) In reviewing [~~the county board's decision~~] a decision described in Subsection (1), the commission may:

(a) admit additional evidence;

(b) issue orders that it considers to be just and proper; and

(c) make any correction or change in the assessment or order of the county board of equalization or entity with decision-making authority.

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(4) In reviewing evidence submitted to the commission [~~by or on behalf of an owner or a county~~] to decide an appeal under this section, the commission shall consider and weigh:

(a) the accuracy, reliability, and comparability of the evidence presented [~~by the owner or the county~~];

(b) if submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date;

(c) if submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time for which, and manner in which, the property was offered for sale; and

(d) if submitted, other evidence that is relevant to determining the fair market value of the property.

(5) In reviewing [~~the county board's decision~~] a decision described in Subsection (1), the commission shall adjust property valuations to reflect a value equalized with the assessed value of other comparable properties if:

(a) the issue of equalization of property values is raised; and

(b) the commission determines that the property that is the subject of the appeal deviates in value plus or minus 5% from the assessed value of comparable properties.

(6) The commission shall decide all appeals taken pursuant to this section not later than March 1 of the following year for real property and within 90 days for personal property, and shall report its decision, order, or assessment to the county auditor, who shall make all changes necessary to comply with the decision, order, or assessment.

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

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

(1) As used in this section:

(a) "Educational purposes" includes:

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

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

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

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

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

(i) entity is treated as a disregarded entity for federal income tax purposes;

(ii) entity is wholly owned by, and controlled under the direction of, a nonprofit entity;  
and

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

(e) "Tax relief" means an exemption, deferral, or abatement that is authorized by this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

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

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

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

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

(A) the claimant is a nonprofit entity; and

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

(c) Subsection (2)(a) does not apply to an exemption [~~under Section 59-2-1104~~]  
described in Part 19, Armed Forces Exemptions.

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

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

(ii) property of:

(A) the state;

(B) school districts; and

(C) public libraries;

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

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- (A) counties;
  - (B) cities;
  - (C) towns;
  - (D) local districts;
  - (E) special service districts; and
  - (F) all other political subdivisions of the state;
- (iv) property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes;
- (v) places of burial not held or used for private or corporate benefit;
  - (vi) farm machinery and equipment;
  - (vii) a high tunnel, as defined in Section 10-9a-525;
  - (viii) intangible property; and
  - (ix) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103:
- (A) if that ownership interest is in property providing additional project capacity, as defined in Section 11-13-103; and
  - (B) on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.
- (b) For purposes of a property tax exemption for property of school districts under Subsection (3)(a)(ii)(B), a charter school under Title 53G, Chapter 5, Charter Schools, is considered to be a school district.
- (4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:
- (a) the new owner of the property shall pay a proportional tax based upon the period of time:
    - (i) beginning on the day that the new owner acquired the property; and
    - (ii) ending on the last day of the calendar year during which the new owner acquired the property; and
  - (b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the

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

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

(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and

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

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

(a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided in this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions; and

(b) designate one or more persons to perform the functions given the county under this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

(7) If a person is dissatisfied with a tax relief decision made under designated decision-making authority as described in Subsection (6)(b), that person may appeal the decision to the commission under Section 59-2-1006.

Section 3. Section **59-2-1102** is amended to read:

**59-2-1102. Determination of exemptions by board of equalization -- Appeal -- Application for exemption -- Annual statement -- Exceptions.**

(1) (a) For property assessed under Part 3, County Assessment, the county board of equalization may, after giving notice in a manner prescribed by rule, determine whether certain property within the county is exempt from taxation.

(b) The decision of the county board of equalization described in Subsection (1)(a) shall:

(i) be in writing; and

(ii) include:

(A) a statement of facts; and

(B) the statutory basis for its decision.

(c) Except as provided in Subsection (11)(a), a copy of the decision described in Subsection (1)(a) shall be sent on or before May 15 to the person applying for the exemption.

(2) The county board of equalization shall notify an owner of exempt property that has previously received an exemption but failed to file an annual statement in accordance with

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Subsection (9)(c), of the county board of equalization's intent to revoke the exemption on or before April 1.

(3) (a) Except as provided in Subsection (8) and subject to Subsection (9), a reduction may not be made under this part or Part 18, Tax Deferral and Tax Abatement, in the value of property and an exemption may not be granted under this part or Part 19, Armed Forces Exemptions, unless the party affected or the party's agent:

(i) makes and files with the county board of equalization a written application for the reduction or exemption, verified by signed statement; and

(ii) appears before the county board of equalization and shows facts upon which it is claimed the reduction should be made, or exemption granted.

(b) Notwithstanding Subsection (9), the county board of equalization may waive:

(i) the application or personal appearance requirements of Subsection (3)(a), (4)(b), or (9)(a); or

(ii) the annual statement requirements of Subsection (9)(c).

(4) (a) Before the county board of equalization grants any application for exemption or reduction, the county board of equalization may examine under oath the person or agent making the application.

(b) Except as provided in Subsection (3)(b), a reduction may not be made or exemption granted unless the person or the agent making the application attends and answers all questions pertinent to the inquiry.

(5) For the hearing on the application, the county board of equalization may subpoena any witnesses, and hear and take any evidence in relation to the pending application.

(6) Except as provided in Subsection (11)(b), the county board of equalization shall hold hearings and render a written decision to determine any exemption on or before May 1 in each year.

(7) Any property owner dissatisfied with the decision of the county board of equalization regarding any reduction or exemption may appeal to the commission under Section 59-2-1006.

(8) Notwithstanding Subsection (3)(a), a county board of equalization may not require an owner of property to file an application in accordance with this section in order to claim an exemption for the property under the following:



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- (a) Subsections 59-2-1101(3)(a)(i) through (iii);
- (b) Subsection 59-2-1101(3)(a)(vi) or (viii);
- (c) Section 59-2-1110;
- (d) Section 59-2-1111;
- (e) Section 59-2-1112;
- (f) Section 59-2-1113; or
- (g) Section 59-2-1114.

(9) (a) Except as provided in Subsections (3)(b) and (9)(b), for property described in Subsection 59-2-1101(3)(a)(iv) or (v), a county board of equalization shall, consistent with Subsection (10), require an owner of that property to file an application in accordance with this section in order to claim an exemption for that property.

(b) Notwithstanding Subsection (9)(a), a county board of equalization may not require an owner of property described in Subsection 59-2-1101(3)(a)(iv) or (v) to file an application under Subsection (9)(a) if:

- (i) (A) the owner filed an application under Subsection (9)(a); or
- (B) the county board of equalization waived the application requirements in accordance with Subsection (3)(b);
- (ii) the county board of equalization determines that the owner may claim an exemption for that property; and
- (iii) the exemption described in Subsection (9)(b)(ii) is in effect.

(c) (i) Except as provided in Subsection (3)(b), for the time period that an owner is granted an exemption in accordance with this section for property described in Subsection 59-2-1101(3)(a)(iv) or (v), a county board of equalization shall require the owner to file an annual statement on a form prescribed by the commission establishing that the property continues to be eligible for the exemption.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing:

- (A) the form for the annual statement required by Subsection (9)(c)(i);
  - (B) the contents of the form for the annual statement required by Subsection (9)(c)(i);
- and
- (C) procedures and requirements for making the annual statement required by

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Subsection (9)(c)(i).

(iii) The commission shall make the form described in Subsection (9)(c)(ii)(A) available to counties.

(10) (a) For purposes of this Subsection (10), "exclusive use exemption" is as defined in Section 59-2-1101.

(b) (i) For purposes of Subsection (1)(a), and except as provided in Subsections (10)(b)(ii) and (iii), when a person acquires property on or after January 1 that qualifies for an exclusive use exemption, that person may apply for the exclusive use exemption on or before the later of:

(A) the day set by rule as the deadline for filing a property tax exemption application; or

(B) 30 days after the day on which the property is acquired.

(ii) Notwithstanding Subsection (10)(b)(i), a person who acquires property on or after January 1, 2004, and before January 1, 2005, that qualifies for an exclusive use exemption, may apply for the exclusive use exemption for the 2004 calendar year on or before September 30, 2005.

(iii) Notwithstanding Subsection (10)(b)(i), a person who acquires property on or after January 1, 2005, and before January 1, 2006, that qualifies for an exclusive use exemption, may apply for the exclusive use exemption for the 2005 calendar year on or before the later of:

(A) September 30, 2005; or

(B) 30 days after the day on which the property is acquired.

(11) (a) Notwithstanding Subsection (1)(c), if an application for an exemption is filed under Subsection (10), a county board of equalization shall send a copy of the decision described in Subsection (1)(c) to the person applying for the exemption on or before the later of:

(i) May 15; or

(ii) 45 days after the day on which the application for the exemption is filed.

(b) Notwithstanding Subsection (6), if an application for an exemption is filed under Subsection (10), a county board of equalization shall hold the hearing and render the decision described in Subsection (6) on or before the later of:

(i) May 1; or

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(ii) 30 days after the day on which the application for the exemption is filed.

Section 4. Section **59-2-1202** is amended to read:

### **59-2-1202. Definitions.**

As used in this part:

(1) (a) "Claimant" means a homeowner or renter who:

(i) files a claim under this part;

(ii) is domiciled in this state for the entire calendar year for which a claim for relief is filed under this part; and

(iii) on or before the December 31 of the year for which a claim for relief is filed under this part, is:

(A) 65 years of age or older if the person was born on or before December 31, 1942;

(B) 66 years of age or older if the person was born on or after January 1, 1943, but on or before December 31, 1959; or

(C) 67 years of age or older if the person was born on or after January 1, 1960.

(b) Notwithstanding Subsection (1)(a), "claimant" includes a surviving spouse:

(i) regardless of:

(A) the age of the surviving spouse; or

(B) the age of the deceased spouse at the time of death;

(ii) if the surviving spouse meets the requirements of this part except for the age requirement;

(iii) if the surviving spouse is part of the same household of the deceased spouse at the time of death of the deceased spouse; and

(iv) if the surviving spouse is unmarried at the time the surviving spouse files the claim.

(c) If two or more individuals of a household are able to meet the qualifications for a claimant, they may determine among them as to who the claimant shall be, but if they are unable to agree, the matter shall be referred to the county legislative body for a determination of the claimant of an owned residence and to the commission for a determination of the claimant of a rented residence.

(2) (a) "Gross rent" means rental actually paid in cash or its equivalent solely for the right of occupancy, at arm's-length, of a residence, exclusive of charges for any utilities,

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services, furniture, furnishings, or personal appliances furnished by the landlord as a part of the rental agreement.

(b) If a claimant occupies two or more residences in the year and does not own the residence as of the lien date, "gross rent" means the total rent paid for the residences during the one-year period for which the renter files a claim under this part.

(3) "Homeowner's credit" means a credit against a claimant's property tax liability.

(4) "Household" means the association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses.

(5) "Household income" means all income received by all persons of a household in:

(a) the calendar year preceding the calendar year in which property taxes are due; or

(b) for purposes of the renter's credit authorized by this part, the year for which a claim is filed.

(6) (a) (i) "Income" means the sum of:

(A) federal adjusted gross income as defined in Section 62, Internal Revenue Code;

and

(B) all nontaxable income as defined in Subsection (6)(b).

(ii) "Income" does not include:

(A) aid, assistance, or contributions from a tax-exempt nongovernmental source;

(B) surplus foods;

(C) relief in kind supplied by a public or private agency; or

(D) relief provided under this part~~[, Section 59-2-1108, or Section 59-2-1109]~~ or Part 18, Tax Deferral and Tax Abatement.

(b) For purposes of Subsection (6)(a)(i), "nontaxable income" means amounts excluded from adjusted gross income under the Internal Revenue Code, including:

(i) capital gains;

(ii) loss carry forwards claimed during the taxable year in which a claimant files for relief under this part~~[, Section 59-2-1108, or Section 59-2-1109]~~ or Part 18, Tax Deferral and Tax Abatement;

(iii) depreciation claimed pursuant to the Internal Revenue Code by a claimant on the residence for which the claimant files for relief under this part~~[, Section 59-2-1108, or Section 59-2-1109]~~ or Part 18, Tax Deferral and Tax Abatement;

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- (iv) support money received;
- (v) nontaxable strike benefits;
- (vi) cash public assistance or relief;
- (vii) the gross amount of a pension or annuity, including benefits under the Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq., and veterans disability pensions;
- (viii) payments received under the Social Security Act;
- (ix) state unemployment insurance amounts;
- (x) nontaxable interest received from any source;
- (xi) workers' compensation;
- (xii) the gross amount of "loss of time" insurance; and
- (xiii) voluntary contributions to a tax-deferred retirement plan.

(7) (a) "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest, and charges for service, levied on a claimant's residence in this state.

(b) For a mobile home, "property taxes accrued" includes taxes imposed on both the land upon which the home is situated and on the structure of the home itself, whether classified as real property or personal property taxes.

(c) (i) Beginning on January 1, 1999, for a claimant who owns a residence, "property taxes accrued" are the property taxes described in Subsection (7)(a) levied for the calendar year on 35% of the fair market value of the residence as reflected on the assessment roll.

(ii) The amount described in Subsection (7)(c)(i) constitutes:

(A) a tax abatement for the poor in accordance with Utah Constitution, Article XIII, Section 3; and

(B) the residential exemption provided for in Section 59-2-103.

(d) (i) For purposes of this Subsection (7) property taxes accrued are levied on the lien date.

(ii) If a claimant owns a residence on the lien date, property taxes accrued mean taxes levied on the lien date, even if that claimant does not own a residence for the entire year.

(e) When a household owns and occupies two or more different residences in this state in the same calendar year, property taxes accrued shall relate only to the residence occupied on the lien date by the household as its principal place of residence.

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(f) (i) If a residence is an integral part of a large unit such as a farm or a multipurpose or multidwelling building, property taxes accrued shall be the same percentage of the total property taxes accrued as the value of the residence is of the total value.

(ii) For purposes of this Subsection (7)(f), "unit" refers to the parcel of property covered by a single tax statement of which the residence is a part.

(8) (a) As used in this section, "rental assistance payment" means any payment that:

(i) is made by a:

(A) governmental entity; or

(B) (I) charitable organization; or

(II) religious organization; and

(ii) is specifically designated for the payment of rent of a claimant:

(A) for the calendar year for which the claimant seeks a renter's credit under this part;

and

(B) regardless of whether the payment is made to the:

(I) claimant; or

(II) landlord; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the terms:

(i) "governmental entity";

(ii) "charitable organization"; or

(iii) "religious organization."

(9) (a) "Residence" means the dwelling, whether owned or rented, and so much of the land surrounding it, not exceeding one acre, as is reasonably necessary for use of the dwelling as a home, and may consist of a part of a multidwelling or multipurpose building and a part of the land upon which it is built and includes a mobile home or houseboat.

(b) "Residence" does not include personal property such as furniture, furnishings, or appliances.

(c) For purposes of this Subsection (9), "owned" includes a vendee in possession under a land contract or one or more joint tenants or tenants in common.

Section 5. Section **59-2-1801** is enacted to read:

### **Part 18. Tax Deferral and Tax Abatement**

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### 59-2-1801. Definitions.

As used in this part:

(1) "Abatement" means a tax abatement described in Section 59-2-1803.

(2) "Deferral" means a tax deferral described in Section 59-2-1802.

(3) "Indigent individual" is a poor individual as described in Utah Constitution, Article XIII, Section 3, Subsection (4), who:

(a) (i) is at least 65 years old; or

(ii) is less than 65 years old and:

(A) the county finds that extreme hardship would prevail on the individual if the county does not defer or abate the individual's taxes; or

(B) the individual has a disability;

(b) has a total household income, as defined in Section 59-2-1202, of less than the maximum household income certified to a homeowner's credit described in Subsection 59-2-1208(1);

(c) resides for at least 10 months of the year in the residence that would be subject to the requested abatement or deferral; and

(d) cannot pay the tax assessed on the individual's residence when the tax becomes due.

(4) "Property taxes due" means the taxes due on an indigent individual's property:

(a) for which a county granted an abatement under Section 59-2-1803; and

(b) for the calendar year for which the county grants the abatement.

(5) "Property taxes paid" means an amount equal to the sum of:

(a) the amount of property taxes the indigent individual paid for the taxable year for which the indigent individual applied for the abatement; and

(b) the amount of the abatement the county grants under Section 59-2-1803.

(6) "Relative" means a spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or a spouse of any of these individuals.

(7) "Residence" means real property where an individual resides, including:

(a) a mobile home, as defined in Section 41-1a-102; or

(b) a manufactured home, as defined in Section 41-1a-102.

Section 6. Section **59-2-1802** is enacted to read:

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### **59-2-1802. Tax deferral.**

(1) (a) In accordance with this part, a county may defer a tax on residential property after giving notice to the taxpayer.

(b) In determining a deferral, a county shall consider an asset transferred to a relative by an applicant for deferral, if the transfer took place during the three years prior to the day on which the applicant applied for deferral.

(2) A county may grant a deferral at any time:

(a) after the holder of each mortgage or trust deed outstanding on the property gives written approval of the application; and

(b) if the applicant is not the owner of income-producing assets that could be liquidated to pay the tax.

(3) Taxes deferred by the county accumulate with interest as a lien against the residential property, as described in Subsection (4), until the owner sells or otherwise disposes of the residential property.

(4) Deferred taxes under this section:

(a) bear interest at an interest rate equal to the lesser of:

(i) 6%; or

(ii) the federal funds rate target:

(A) established by the Federal Open Markets Committee; and

(B) that exists on the January 1 immediately preceding the day on which the taxes are deferred; and

(b) have the same status as a lien as described in Sections 59-2-1301 and 59-2-1325.

(5) If the owner of residential property that is granted deferral under this section is an indigent individual, during the period of deferral the county may not subject the residential property to a tax sale.

Section 7. Section **59-2-1803** is enacted to read:

### **59-2-1803. Tax abatement for indigent individuals-- Maximum amount -- Refund.**

(1) In accordance with this part, a county may remit or abate the taxes of an indigent individual in an amount not more than the lesser of:

(a) the amount provided as a homeowner's credit for the lowest household income bracket as described in Section 59-2-1208; or



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(b) 50% of the total tax levied for the indigent individual for the current year.

(2) A county that grants an abatement to an indigent individual shall refund to the indigent individual an amount that is equal to the amount by which the indigent individual's property taxes paid exceed the indigent individual's property taxes due, if the amount is at least \$1.

Section 8. Section **59-2-1804** is enacted to read:

### **59-2-1804. Application for tax deferral or tax abatement.**

(1) (a) Except as provided in Subsection (1)(b), an applicant for deferral or abatement for the current tax year shall file an application on or before September 1 with the county in which the applicant's property is located.

(b) If a county finds good cause exists, the county may extend until December 31 the deadline described in Subsection (1)(a).

(c) An indigent individual may apply and potentially qualify for deferral, abatement, or both.

(2) An applicant shall include in an application a signed statement that describes the eligibility of the applicant for deferral or abatement.

(3) Both spouses shall sign an application if the application seeks a deferral or abatement on a residence:

(a) in which both spouses reside; and

(b) that the spouses own as joint tenants.

(4) If an applicant is dissatisfied with a county's decision on the applicant's application for deferral or abatement, the applicant may appeal the decision to the commission in accordance with Section 59-2-1006.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to implement this section.

Section 9. Section **59-2-1805** is enacted to read:

### **59-2-1805. Treatment of trusts.**

If an applicant for deferral or abatement is the grantor of a trust holding title to real or tangible personal property for which a deferral or abatement is claimed, a county may allow the applicant to claim a portion of the deferral or abatement and be treated as the owner of that portion of the property held in trust, if the applicant proves to the satisfaction of the county

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that:

(1) title to the portion of the trust will revert in the applicant upon the exercise of a power by:

- (a) the claimant as grantor of the trust;
- (b) a nonadverse party; or
- (c) both the claimant and a nonadverse party;

(2) title will revert as described in Subsection (1), regardless of whether the power described in Subsection (1) is a power to revoke, terminate, alter, amend, or appoint;

(3) the applicant is obligated to pay the taxes on that portion of the trust property beginning January 1 of the year the claimant claims the deferral or abatement; and

(4) the claimant satisfies the requirements described in this part for deferral or abatement.

Section 10. Section **59-2-1901** is enacted to read:

### **Part 19. Armed Forces Exemptions**

#### **59-2-1901. Definitions.**

As used in this section:

(1) "Active component of the United States Armed Forces" means the same as that term is defined in Section 59-10-1027.

(2) "Active duty claimant" means a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who:

- (a) performed qualifying active duty military service; and
- (b) applies for an exemption described in Section 59-2-1902.

(3) "Adjusted taxable value limit" means:

- (a) for the calendar year that begins on January 1, 2015, \$252,126; or
- (b) for each calendar year after the calendar year that begins on January 1, 2015, 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.

(4) "Consumer price index" means the same as that term is described in Section 1(f)(4), Internal Revenue Code, and defined in Section 1(f)(5), Internal Revenue Code.

(5) "Deceased veteran with a disability" means a deceased individual who was a

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veteran with a disability at the time the individual died.

(6) "Military entity" means:

(a) the United States Department of Veterans Affairs;

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

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

(7) "Primary residence" includes the residence of a individual who does not reside in the residence if the individual:

(a) does not reside in the residence because the individual is admitted as an inpatient at a health care facility as defined in Section 26-55-102; and

(b) otherwise meets the requirements of this part.

(8) "Qualifying active duty military service" means at least 200 days, regardless of whether consecutive, in any continuous 365-day period of active duty military service outside the state in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, if the days of active duty military service:

(a) were completed in the year before an individual applies for an exemption described in Section 59-2-1902; and

(b) have not previously been counted as qualifying active duty military service for purposes of qualifying for an exemption described in Section 59-2-1902 or applying for the exemption described in Section 59-2-1902.

(9) "Statement of disability" means the statement of disability described in Section 59-2-1904.

(10) "Reserve component of the United States Armed Forces" means the same as that term is defined in Section 59-10-1027.

(11) "Residence" means real property where an individual resides, including:

(a) a mobile home, as defined in Section 41-1a-102; or

(b) a manufactured home, as defined in Section 41-1a-102.

(12) "Veteran claimant" means one of the following individuals who applies for an exemption described in Section 59-2-1903:

(a) a veteran with a disability;

(b) the unmarried surviving spouse;

(i) of a deceased veteran with a disability; or

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(ii) a veteran who was killed in action or died in the line of duty; or

(c) a minor orphan:

(i) of a deceased veteran with a disability; or

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

(13) "Veteran who was killed in action or died in the line of duty" means an individual who was killed in action or died in the line of duty in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, regardless of whether that individual had a disability at the time that individual was killed in action or died in the line of duty.

(14) "Veteran with a disability" means an individual with a disability who, during military training or a military conflict, acquired a disability in the line of duty in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, as determined by a military entity.

Section 11. Section **59-2-1902** is enacted to read:

**59-2-1902. Active duty armed forces exemption -- Amount -- Application.**

(1) As used in this section, "default application deadline" means the application deadline described in Subsection (4)(a).

(2) (a) The total taxable value of an active duty claimant's primary residence is exempt from taxation for the calendar year after the year in which the active duty claimant completed qualifying military service.

(b) An active duty claimant may claim an exemption in accordance with this section if the active duty claimant owns the property **eligible for the exemption** at any time during the calendar year for which the active duty claimant claims the exemption.

(3) An active duty claimant shall:

(a) file an application as described in Subsection (4) in the year after the year during which the active duty claimant completes the qualifying active duty military service; and

(b) if the active duty claimant meets the requirements of this section, claim one exemption only in the year the active duty claimant files the application.

(4) (a) Except as provided in Subsection (5) or (6), an active duty claimant shall, on or before September 1 of the calendar year for which the active duty claimant is applying for the exemption, file an application for an exemption with the county in which the active duty

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claimant resides on September 1.

(b) An application described in Subsection (4)(a) shall include:

(i) ~~orders for qualifying active duty military service~~ a completed travel voucher or other satisfactory evidence of eligible military services; and

(ii) a statement that lists the dates on which the 200 days of qualifying active duty military service began and ended.

(c) A county that receives an application described in Subsection (4)(a) shall, within 30 days after the day on which the county received the application, provide the active duty claimant with a receipt that states that the county received the active duty claimant's application.

(5) A county may extend the default application deadline for an application described in Subsection (4)(a) until December 31 of the year for which the active duty claimant is applying for the exemption if the county finds that good cause exists to extend the default application deadline.

(6) A county shall extend the default application deadline by one additional year if the county legislative body determines that:

(a) the active duty claimant or a member of the active duty claimant's immediate family had an illness or injury that prevented the active duty claimant from filing the application on or before the default application deadline;

(b) a member of the active duty claimant's immediate family died during the calendar year of the default application deadline;

(c) the active duty claimant was not physically present in the state for a time period of at least six consecutive months during the calendar year of the default application deadline; or

(d) the failure of the active duty claimant to file the application on or before the default application deadline;

(i) would be against equity or good conscience; and

(ii) was beyond the reasonable control of the active duty claimant.

(7) After issuing the receipt described in Subsection (4)(c), a county may not require an active duty claimant to file another application under Subsection (4)(a), except under the following circumstances:

(a) a change in the active duty claimant's ownership of the active duty claimant's

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primary residence; or

(b) a change in the active duty claimant's occupancy of the primary residence for which the active duty claimant claims an exemption under this section.

(8) A county may verify that real property for which an active duty claimant applies for an exemption is the active duty claimant's primary residence.

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

(a) establish procedures and requirements for amending an application described in Subsection (4);

(b) for purposes of Subsection (6), define the terms:

(i) "immediate family"; or

(ii) "physically present"; or

(c) for purposes of Subsection (6)(d), prescribe the circumstances under which the failure of an active duty claimant to file an application on or before the default application deadline:

(i) would be against equity or good conscience; and

(ii) is beyond the reasonable control of an active duty claimant.

Section 12. Section **59-2-1903** is enacted to read:

**59-2-1903. Veteran armed forces exemption -- Amount.**

(1) As used in this section, "eligible property" means property owned by a veteran claimant that is:

(a) the veteran claimant's primary residence; or

(b) tangible personal property that:

(i) is held exclusively for personal use; and

(ii) is not used in a trade or business.

(2) In accordance with this part, the amount of taxable value of eligible property described in Subsection (3) or (4) is exempt from taxation if the eligible property is owned by a veteran claimant.

(3) (a) Except as provided in Subsection (4) and in accordance with this Subsection (3), the amount of taxable value of eligible property that is exempt under Subsection (2) is equal to the percentage of disability described in the statement of disability multiplied by the adjusted

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taxable value limit.

(b) The amount of an exemption calculated under Subsection (3)(a) may not exceed the taxable value of the eligible property.

(c) A county shall consider a veteran with a disability to have a 100% disability, regardless of the percentage of disability described on the statement of disability, if the United States Department of Veterans Affairs certifies the veteran in the classification of individual unemployability.

(d) A county may not allow an exemption claimed under this section if the percentage of disability listed on the statement of disability is less than 10%.

(4) The amount of taxable value of eligible property that is exempt under Subsection (2) is equal to the total taxable value of the veteran claimant's eligible property 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;

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

(c) the unmarried surviving spouse or minor orphan of a deceased veteran with a disability:

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

(ii) whose percentage of disability described in the statement of disability is 10% or more.

(5) For purposes of this section and Section 59-2-1904, an individual who received an honorable or general discharge from military service of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces:

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

(b) may not be required to provide additional proof of citizenship to establish that the individual is a citizen of the United States.

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

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Section 13. Section **59-2-1904** is enacted to read:

### **59-2-1904. Veteran armed forces exemption -- Application.**

(1) As used in this section, "default application deadline" means the application deadline described in Subsection (3)(a).

(2) A veteran claimant may claim an exemption in accordance with Section 59-2-1903 and this section if the veteran claimant owns the property eligible for the exemption at any time during the calendar year for which the veteran claimant claims the exemption.

(3) (a) Except as provided in Subsection (4) or (5), a veteran claimant shall, on or before September 1 of the **calendar** year for which the veteran claimant is applying for the exemption, file an application for an exemption described in Section 59-2-1903 with the county in which the veteran claimant resides **on September 1**.

(b) An application described in Subsection (3)(a) shall include:

(i) a copy of the veteran's certificate of discharge from military service or other satisfactory evidence of eligible military service; and

(ii) for an application submitted under the circumstances described in Subsection (5)(a), a statement, issued by a military entity, that gives the date on which the written decision described in Subsection (5)(a) takes effect.

(c) A veteran claimant who is claiming an exemption for a veteran with a disability or a deceased veteran with a disability, shall ensure that as part of the application described in this Subsection (3), the county has on file, for the veteran related to the exemption, a statement of disability:

(i) issued by a military entity; and

(ii) that lists the percentage of disability for the veteran with a disability or deceased veteran with a disability.

(d) If a veteran claimant is in compliance with Subsection (3)(c), a county may not require the veteran claimant to file another statement of disability, except under the following circumstances:

(i) the percentage of disability has changed for the veteran with a disability or the deceased veteran with a disability; or

(ii) the veteran claimant is not the same individual who filed an application for the exemption for the calendar year immediately preceding the current calendar year.



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(e) A county that receives an application described in Subsection (3)(a) shall, within 30 days after the day on which the county received the application, provide the veteran claimant with a receipt that states that the county received the veteran claimant's application.

(4) A county may extend the default application deadline for an initial or amended application until December 31 of the year for which the veteran claimant is applying for the exemption if the county finds that good cause exists to extend the default application deadline.

(5) A county shall extend the default application deadline by one additional year if, on or after January 4, 2004:

(a) a military entity issues a written decision that:

(i) (A) for a potential claimant who is a living veteran, determines the veteran is a veteran with a disability; or

(B) for a potential claimant who is the unmarried surviving spouse or minor orphan of a deceased veteran, determines the deceased veteran was a deceased veteran with a disability at the time the deceased veteran with a disability died; and

(ii) takes effect in a year before the current calendar year; or

(b) the county legislative body determines that:

(i) the veteran claimant or a member of the veteran claimant's immediate family had an illness or injury that prevented the veteran claimant from filing the application on or before the default application deadline;

(ii) a member of the veteran claimant's immediate family died during the calendar year of the default application deadline;

(iii) the veteran claimant was not physically present in the state for a time period of at least six consecutive months during the calendar year of the default application deadline; or

(iv) the failure of the veteran claimant to file the application on or before the default application deadline:

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

(B) was beyond the reasonable control of the veteran claimant.

(6) (a) A county shall allow a veteran claimant to amend an application described in Subsection (3)(a) after the default application deadline if, on or after January 4, 2004, a military entity issues a written decision:

(i) that the percentage of disability has changed:

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(A) for a veteran with a disability, if the veteran with a disability is the veteran claimant; or

(B) for a deceased veteran with a disability, if the claimant is the unmarried surviving spouse or minor orphan of a deceased veteran with a disability; and

(ii) that takes effect in a year before the current calendar year.

(b) A veteran claimant who files an amended application under Subsection (6)(a) shall include a statement, issued by a military entity, that gives the date on which the written decision described in Subsection (6)(a) takes effect.

(7) After issuing the receipt described in Subsection (3)(e), a county may not require a veteran claimant to file another application under Subsection (3)(a), except under the following circumstances relating to the veteran claimant:

(a) the veteran claimant applies all or a portion of an exemption to tangible personal property;

(b) the percentage of disability changes for a veteran with a disability or a deceased veteran with a disability;

(c) the veteran with a disability dies;

(d) a change in the veteran claimant's ownership of the veteran claimant's primary residence;

(e) a change in the veteran claimant's occupancy of the primary residence for which the veteran claimant claims an exemption under this section; or

(f) for an exemption relating to a deceased veteran with a disability or a veteran who was killed in action or died in the line of duty, the veteran claimant is not the same individual who filed an application for the exemption for the calendar year immediately preceding the current calendar year.

(8) If a veteran claimant is the grantor of a trust holding title to real or tangible personal property for which an exemption described in Section 59-2-1903 is claimed, a county may allow the veteran claimant to claim a portion of the exemption and be treated as the owner of that portion of the property held in trust, if the veteran claimant proves to the satisfaction of the county that:

(a) title to the portion of the trust will revert in the veteran claimant upon the exercise of a power by:

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(i) the veteran claimant as grantor of the trust;

(ii) a nonadverse party; or

(iii) both the veteran claimant and a nonadverse party;

(b) title will revert as described in Subsection (8)(a), regardless of whether the power described in Subsection (8)(a) is a power to revoke, terminate, alter, amend, or appoint; and

(c) the veteran claimant satisfies the requirements described in this part for the exemption described in Section 59-2-1903.

(9) A county may verify that real property for which a veteran claimant applies for an exemption is the veteran claimant's primary residence.

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

(a) establish procedures and requirements for amending an application described in Subsection (3)(a);

(b) for purposes of Subsection (5)(b), define the terms:

(i) "immediate family"; or

(ii) "physically present"; or

(c) for purposes of Subsection (5)(b), prescribe the circumstances under which the failure of a veteran claimant to file an application on or before the default application deadline:

(i) would be against equity or good conscience; and

(ii) is beyond the reasonable control of a veteran claimant.

Section 14. Section **59-2-1905** is enacted to read:

### **59-2-1905. Refund.**

(1) As used in this section:

(a) "Property taxes and fees due" means:

(i) the taxes due on an active duty claimant or veteran claimant's property:

(A) with respect to which a county grants an exemption under this part; and

(B) for the calendar year for which the county grants an exemption under this part; and

(ii) for a veteran claimant, a uniform fee on tangible personal property described in Section 59-2-405 that is owned by the veteran claimant and assessed for the calendar year for which the county grants an exemption under this part.

(b) "Property taxes and fees paid" is an amount equal to the sum of the following:

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(i) the amount of property taxes that qualifies for an exemption under this part that the active duty claimant or the veteran claimant paid for the calendar year for which the active duty claimant or veteran claimant is applying for an exemption under this part;

(ii) the amount of the exemption the county grants for the calendar year for which the active duty claimant or veteran claimant is applying for an exemption under this part; and

(iii) for a veteran claimant, the amount of a uniform fee on tangible personal property, described in Section 59-2-405 and that qualifies for an exemption under this part, that is paid by the veteran claimant for the calendar year for which the veteran claimant is applying for an exemption under this part.

(2) A county shall refund to an active duty claimant or a veteran claimant an amount equal to the amount by which the active duty claimant or veteran claimant's property taxes and fees paid exceed the active duty claimant or veteran claimant's property taxes and fees due, if that amount is \$1 or more.

Section 15. **Repealer.**

This bill repeals:

Section **59-2-1104, Definitions -- Armed forces exemption -- Amount of armed forces exemption.**

Section **59-2-1105, Application for United States armed forces exemption -- Rulemaking authority -- Statement -- County authority to make refunds.**

Section **59-2-1107, Indigent persons -- Amount of abatement.**

Section **59-2-1108, Indigent persons -- Deferral of taxes -- Interest rate -- Treatment of deferred taxes.**

Section **59-2-1109, Indigent persons -- Deferral or abatement -- Application -- County authority to make refunds -- Appeal.**

Section 16. **Effective date.**

This bill takes effect on January 1, 2020.