

**Senator Daniel Hemmert** proposes the following substitute bill:

**PROPERTY TAX MODIFICATIONS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jefferson Moss**

Senate Sponsor: Daniel Hemmert

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to property tax.

**Highlighted Provisions:**

This bill:

- ▶ provides that when an ownership interest in residential property changes the county assessor shall provide the new owner a form prescribed by statute on which the new owner may declare that the residential property qualifies for the primary residential exemption;
- ▶ requires a property tax notice to include additional information, including the taxable value of the property, the deadline to appeal the valuation or equalization of the property, information related to the residential exemption, and information related to a rate increase resulting from a change to state law; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides retrospective operation.

**Utah Code Sections Affected:**



26 AMENDS:

27 **59-2-103.5**, as last amended by Laws of Utah 2019, Chapter 323

28 **59-2-919.1**, as last amended by Laws of Utah 2019, Chapter 16

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

31 Section 1. Section **59-2-103.5** is amended to read:

32 **59-2-103.5. Procedures to obtain an exemption for residential property --**  
 33 **Procedure if property owner or property no longer qualifies to receive a residential**  
 34 **exemption.**

35 (1) Subject to Subsection (8), for residential property other than part-year residential  
 36 property, a county legislative body may adopt an ordinance that requires an owner to file an  
 37 application with the county board of equalization before a residential exemption under Section  
 38 **59-2-103** may be applied to the value of the residential property if:

39 (a) the residential property was ineligible for the residential exemption during the  
 40 calendar year immediately preceding the calendar year for which the owner is seeking to have  
 41 the residential exemption applied to the value of the residential property;

42 (b) an ownership interest in the residential property changes; or

43 (c) the county board of equalization determines that there is reason to believe that the  
 44 residential property no longer qualifies for the residential exemption.

45 (2) (a) The application described in Subsection (1) ~~shall~~ **←** ~~←~~ **→** :

46 (i) ~~shall~~ **←** ~~←~~ **→** be on a form the commission prescribes by rule and makes available to the  
 46a counties;

47 (ii) ~~shall~~ **←** ~~←~~ **→** be signed by ~~[all of the owners]~~ the owner of the residential property; and

48 ~~[(iii) certify that the residential property is residential property; and]~~

49 ~~[(iv) contain other information as the commission requires by rule.]~~

50 ~~shall~~ **←** ~~←~~ **→** [(iii) request no more information from the owner of the residential property than the  
 51 form provided in Subsection (8)(c).] **←** ~~←~~ **→** (iii) may not request the sales price of the residential  
 51a property. **←** ~~←~~ **→**

52 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 53 commission may make rules prescribing the contents of the form described in Subsection  
 54 (2)(a).

55 (c) For purposes of the application described in Subsection (1), a county may not  
 56 request information from an owner of a residential property beyond the information provided in

57 the form prescribed by the commission under this Subsection (2).

58 (3) (a) Regardless of whether a county legislative body adopts an ordinance described  
59 in Subsection (1), before a residential exemption may be applied to the value of part-year  
60 residential property, an owner of the property shall:

61 (i) file the application described in Subsection (2)(a) with the county board of  
62 equalization; and

63 (ii) include as part of the application described in Subsection (2)(a) a statement that  
64 certifies:

65 (A) the date the part-year residential property became residential property;

66 (B) that the part-year residential property will be used as residential property for 183 or  
67 more consecutive calendar days during the calendar year for which the owner seeks to obtain  
68 the residential exemption; and

69 (C) that the owner, or a member of the owner's household, may not claim a residential  
70 exemption for any property for the calendar year for which the owner seeks to obtain the  
71 residential exemption, other than the part-year residential property, or as allowed under Section  
72 59-2-103 with respect to the primary residence or household furnishings, furniture, and  
73 equipment of the owner's tenant.

74 (b) An owner may not obtain a residential exemption for part-year residential property  
75 unless the owner files an application under this Subsection (3) on or before November 30 of the  
76 calendar year for which the owner seeks to obtain the residential exemption.

77 (c) If an owner files an application under this Subsection (3) on or after May 1 of the  
78 calendar year for which the owner seeks to obtain the residential exemption, the county board  
79 of equalization may require the owner to pay an application fee of not to exceed \$50.

80 (4) Except as provided in Subsection (5), if a property owner no longer qualifies to  
81 receive a residential exemption authorized under Section 59-2-103 for the property owner's  
82 primary residence, the property owner shall:

83 (a) file a written statement with the county board of equalization of the county in which  
84 the property is located:

85 (i) on a form provided by the county board of equalization; and

86 (ii) notifying the county board of equalization that the property owner no longer  
87 qualifies to receive a residential exemption authorized under Section 59-2-103 for the property

88 owner's primary residence; and

89 (b) declare on the property owner's individual income tax return under Chapter 10,  
90 Individual Income Tax Act, for the taxable year for which the property owner no longer  
91 qualifies to receive a residential exemption authorized under Section 59-2-103 for the property  
92 owner's primary residence, that the property owner no longer qualifies to receive a residential  
93 exemption authorized under Section 59-2-103 for the property owner's primary residence.

94 (5) A property owner is not required to file a written statement or make the declaration  
95 described in Subsection (4) if the property owner:

96 (a) changes primary residences;

97 (b) qualified to receive a residential exemption authorized under Section 59-2-103 for  
98 the residence that was the property owner's former primary residence; and

99 (c) qualifies to receive a residential exemption authorized under Section 59-2-103 for  
100 the residence that is the property owner's current primary residence.

101 (6) Subsections (2) through (5) do not apply to qualifying exempt primary residential  
102 rental personal property.

103 (7) (a) Subject to Subsection (8), for the first calendar year in which a property owner  
104 qualifies to receive a residential exemption under Section 59-2-103, a county assessor may  
105 require the property owner to file a signed statement described in Section 59-2-306.

106 (b) Subject to Subsection (8) and notwithstanding Section 59-2-306, for a calendar year  
107 after the calendar year described in Subsection (7)(a) in which a property owner qualifies for an  
108 exemption described in Subsection 59-2-1115(2) for qualifying exempt primary residential  
109 rental personal property, a signed statement described in Section 59-2-306 with respect to the  
110 qualifying exempt primary residential rental personal property may only require the property  
111 owner to certify, under penalty of perjury, that the property owner qualifies for the exemption  
112 under Subsection 59-2-1115(2).

113 (8) (a) Subject to the requirements of this Subsection (8) and except as provided in  
114 Subsection (8)~~(c)~~(b), on or before May 1, 2020, a county assessor shall:

115 (i) notify each owner of residential property that the owner is required to submit a  
116 written declaration described in Subsection (8)~~(b)~~(d) within 30 days after the day on which  
117 the county assessor mails the notice under this Subsection (8)(a); and

118 (ii) provide each owner with a form described in Subsection (8)(e) to make the written

119 declaration described in Subsection (8)(b)(d).

120 ~~[(b) Each owner of residential property that receives a notice described in Subsection~~  
 121 ~~(8)(a) shall file a written declaration with the county assessor under penalty of perjury:]~~

122 ~~[(i) certifying whether the property is residential property or part-year residential~~  
 123 ~~property;]~~

124 ~~[(ii) certifying whether during any portion of the current calendar year, the property~~  
 125 ~~receives a residential exemption under Section 59-2-103; and]~~

126 ~~[(iii) certifying whether the property owner owns other property in the state that~~  
 127 ~~receives a residential exemption under Section 59-2-103, and if so, listing:]~~

128 ~~[(A) the parcel number of the property;]~~

129 ~~[(B) the county in which the property is located; and]~~

130 ~~[(C) whether the property is the primary residence of a tenant.]~~

131 ~~[(e)]~~ (b) A county assessor is not required to provide a notice to an owner of residential  
 132 property under Subsection (8)(a) if the situs address of the residential property is the same as  
 133 any one of the following:

134 (i) the mailing address of the residential property owner or the tenant of the residential  
 135 property;

136 (ii) the address listed on the:

137 (A) residential property owner's driver license; or

138 (B) tenant of the residential property's driver license; or

139 (iii) the address listed on the:

140 (A) residential property owner's voter registration; or

141 (B) tenant of the residential property's voter registration.

142 ~~[(d) If an ownership interest in residential property changes, the new owner of the~~  
 143 ~~residential property, at the time title to the property is transferred to the new owner, shall make~~  
 144 ~~a written declaration under penalty of perjury:]~~

145 ~~[(i) certifying whether the property is residential property or part-year residential~~  
 146 ~~property;]~~

147 ~~[(ii) certifying whether the property receives a residential exemption under Section~~  
 148 ~~59-2-103; and]~~

149 ~~[(iii) certifying whether the property owner owns other property in the state that~~

150 receives a residential exemption under Section ~~59-2-103~~, and if so, listing:]

151 [~~(A) the parcel number of the property;~~]

152 [~~(B) the county in which the property is located; and~~]

153 [~~(C) whether the property is the primary residence of a tenant.]~~]

154 (c) After an ownership interest in residential property changes, the county assessor  
155 shall:

156 (i) notify the owner of the residential property that the owner is required to submit a  
157 written declaration described in Subsection (8)(d) within 90 days after the day on which the  
158 owner receives notice under this Subsection (8)(c); and

159 (ii) provide the owner of the residential property with the form described in Subsection  
160 (8)(e) to make the written declaration described in Subsection (8)(d).

161 (d) An owner of residential property that receives a notice described in Subsection  
162 (8)(a) or (c) shall submit a written declaration to the county assessor under penalty of perjury  
163 certifying the information contained in the form provided in Subsection (8)(e).

164 (e) The written declaration required by Subsection [~~(8)(b) or (d)~~] (8)(d) shall be:

165 [~~(i) be on a form the commission prescribes and makes available to the counties;~~]

166 [~~(ii) (i) [be] signed by [all of the owners] the owner of the residential property; and~~

167 [~~(iii) include the following statement:~~]

168 (ii) in substantially the following form:

169 "Residential Property Declaration

170 This form must be submitted to the County Assessor's office where your new residential  
171 property is located within 90 days of receipt. Failure to do so will result in the county assessor  
172 taking action that could result in the withdrawal of the primary residential exemption from your  
173 residential property.

174 Residential Property Owner Information

175 Name(s): \_\_\_\_\_

176 Home Phone: \_\_\_\_\_

177 Work Phone: \_\_\_\_\_

178 Mailing Address: \_\_\_\_\_

179 Residential Property Information

180 Physical Address: \_\_\_\_\_

181 Certification

182 1. Is this property used as a primary residential property or part-year residential  
183 property for you or another person?

184 "Part-year residential property" means owned property that is not residential property on  
185 January 1 of a calendar year but becomes residential property after January 1 of the calendar  
186 year.

187 Yes No

188 2. Will this primary residential property or part-year residential property be occupied  
189 for 183 or more consecutive calendar days by the owner or another person?

190 A part-year residential property occupied for 183 or more consecutive calendar days in  
191 a calendar year by the owner(s) or a tenant is eligible for the exemption.

192 Yes No

193 <sup>[4]</sup>If a property owner or a property owner's spouse claims a residential exemption  
194 under Utah Code Ann. § 59-2-103 for property in this state that is the primary residence of the  
195 property owner or the property owner's spouse, that claim of a residential exemption creates a  
196 rebuttable presumption that the property owner and the property owner's spouse have domicile  
197 in Utah for income tax purposes. The rebuttable presumption of domicile does not apply if the  
198 residential property is the primary residence of a tenant of the property owner or the property  
199 owner's spouse.<sup>[4]</sup>

200 Signature

201 This form must be signed by all owners of the property.

202 Under penalties of perjury, I declare to the best of my knowledge and belief, this  
203 declaration and accompanying pages are true, correct, and complete.

204 \_\_\_\_\_ (Owner signature) \_\_\_\_\_ Date (mm/dd/yyyy)

205 \_\_\_\_\_ (Owner printed name)

206 (f) For purposes of a written declaration described in this Subsection (8), a county may  
207 not request information from a property owner beyond the information described in the form  
208 provided in Subsection (8)(e).

209 ~~[(f) The written declaration made under Subsection (8)(d) shall be remitted to the~~  
210 ~~county assessor of the county where the property described in Subsection (8)(d) is located~~  
211 ~~within five business days of the title being transferred to the new owner.]~~

212 (g) (i) If, after receiving a written declaration filed under Subsection [~~(8)(b)~~ or] (8)(d),  
213 the county determines that the property has been incorrectly qualified or disqualified to receive  
214 a residential exemption, the county shall:

215 (A) redetermine the property's qualification to receive a residential exemption; and  
216 (B) notify the claimant of the redetermination and its reason for the redetermination.

217 (ii) The redetermination provided in Subsection (8)(g)(i)(A) [~~shall be~~] is final unless  
218 appealed within 30 days after the notice required by Subsection (8)(g)(i)(B).

219 (h) (i) If a residential property owner fails to file a written declaration required by  
220 Subsection [~~(8)(b) or (d)~~] (8)(d), the county assessor shall mail to the owner of the residential  
221 property a notice that:

222 (A) the property owner failed to file a written declaration as required by Subsection  
223 [~~(8)(b) or~~] (8)(d); and

224 (B) the property owner will no longer qualify to receive the residential exemption  
225 authorized under Section [59-2-103](#) for the property that is the subject of the written declaration  
226 if the property owner does not file the written declaration required by Subsection [~~(8)(b) or (d)~~]  
227 (8)(d) within 30 days after the day on which the county assessor mails the notice under this  
228 Subsection (8)(h)(i).

229 (ii) If a property owner fails to file a written declaration required by Subsection [~~(8)(b)~~  
230 ~~or (d)~~] (8)(d) after receiving the notice described in Subsection (8)(h)(i), the property owner no  
231 longer qualifies to receive the residential exemption authorized under Section [59-2-103](#) in the  
232 calendar year for the property that is the subject of the written declaration.

233 (iii) A property owner that is disqualified to receive the residential exemption under  
234 Subsection (8)(h)(ii) may file an application described in Subsection (1) to determine whether  
235 the owner is eligible to receive the residential exemption.

236 (i) The requirements of this Subsection (8) do not apply to a county assessor in a  
237 county that has, for the five calendar years prior to 2019, had in place and enforced an  
238 ordinance described in Subsection (1).

239 Section 2. Section [59-2-919.1](#) is amended to read:

240 **[59-2-919.1. Notice of property valuation and tax changes.](#)**

241 (1) In addition to the notice requirements of Section [59-2-919](#), the county auditor, on or  
242 before July 22 of each year, shall notify each owner of real estate who is listed on the



243 assessment roll.

244 (2) The notice described in Subsection (1) shall:

245 (a) except as provided in Subsection [~~(4)~~] (5), be sent to all owners of real property by  
246 mail 10 or more days before the day on which:

247 (i) the county board of equalization meets; and

248 (ii) the taxing entity holds a public hearing on the proposed increase in the certified tax  
249 rate;

250 (b) be on a form that is:

251 (i) approved by the commission; and

252 (ii) uniform in content in all counties in the state; and

253 (c) contain for each property:

254 (i) the assessor's determination of the value of the property;

255 (ii) the taxable value of the property;

256 ~~[(ii) the date the county board of equalization will meet to hear complaints on the  
257 valuation;]~~

258 (iii) (A) the deadline for the taxpayer to make an application to appeal the valuation or  
259 equalization of the property under Section 59-2-1004; or

260 (B) for property assessed by the commission, the deadline for the taxpayer to apply to  
261 the commission for a hearing on an objection to the valuation or equalization of the property  
262 under Section 59-2-1007;

263 (iv) for a property assessed by the commission, a statement that the taxpayer may not  
264 appeal the valuation or equalization of the property to the county board of equalization;

265 ~~[(iii)]~~ (v) itemized tax information for all applicable taxing entities, including:

266 (A) the dollar amount of the taxpayer's tax liability for the property in the prior year;

267 and

268 (B) the dollar amount of the taxpayer's tax liability under the current rate;

269 (vi) the following, stated separately:

270 (A) the charter school levy described in Section 53F-2-703;

271 (B) the multicounty assessing and collecting levy described in Subsection  
272 59-2-1602(2);

273 (C) the county assessing and collecting levy described in Subsection 59-2-1602(4);

274 (D) for a fiscal year that begins before July 1, 2023, the combined basic rate as defined  
275 in Section 53F-2-301.5; and

276 (E) for a fiscal year that begins on or after July 1, 2023, the combined basic rate as  
277 defined in Section 53F-2-301;

278 [~~(iv)~~] (vii) the tax impact on the property;

279 [~~(v)~~] (viii) the time and place of the required public hearing for each entity;

280 [~~(vi)~~] (ix) property tax information pertaining to:

281 (A) taxpayer relief;

282 (B) options for payment of taxes; [~~and~~]

283 (C) collection procedures; and

284 (D) the residential exemption described in Section 59-2-103;

285 [~~(vii)~~] (x) information specifically authorized to be included on the notice under this  
286 chapter;

287 [~~(viii)~~] (xi) the last property review date of the property as described in Subsection  
288 59-2-303.1(1)(c); and

289 [~~(ix)~~] (xii) other property tax information approved by the commission.

290 (3) If a taxing entity that is subject to the notice and hearing requirements of  
291 Subsection 59-2-919(4) proposes a tax increase, the notice described in Subsection (1) shall  
292 state, in addition to the information required by Subsection (2):

293 (a) the dollar amount of the taxpayer's tax liability if the proposed increase is approved;

294 (b) the difference between the dollar amount of the taxpayer's tax liability if the  
295 proposed increase is approved and the dollar amount of the taxpayer's tax liability under the  
296 current rate, placed in close proximity to the information described in Subsection

297 (2)(c)[~~(v)~~](viii); and

298 (c) the percentage increase that the dollar amount of the taxpayer's tax liability under  
299 the proposed tax rate represents as compared to the dollar amount of the taxpayer's tax liability  
300 under the current tax rate.

301 (4) If a change to state law increases a tax rate stated on a notice described in  
302 Subsection (1), the notice described in Subsection (1) shall state in addition to the information  
303 required by Subsections (2) and (3):

304 (a) the difference between the dollar amount of the taxpayer's tax liability under the

305 current tax rate and the dollar amount of the taxpayer's tax liability before the change to state  
306 law became effective; and

307 (b) the percentage increase that the dollar amount of the taxpayer's tax liability under  
308 the current tax rate represents as compared to the dollar amount of the taxpayer's tax liability  
309 under the tax rate before the change to state law becomes effective.

310 ~~[(4)]~~ (5) (a) Subject to the other provisions of this Subsection ~~[(4)]~~ (5), a county auditor  
311 may, at the county auditor's discretion, provide the notice required by this section to a taxpayer  
312 by electronic means if a taxpayer makes an election, according to procedures determined by the  
313 county auditor, to receive the notice by electronic means.

314 (b) (i) If a notice required by this section is sent by electronic means, a county auditor  
315 shall attempt to verify whether a taxpayer receives the notice.

316 (ii) If receipt of the notice sent by electronic means cannot be verified 14 days or more  
317 before the county board of equalization meets and the taxing entity holds a public hearing on a  
318 proposed increase in the certified tax rate, the notice required by this section shall also be sent  
319 by mail as provided in Subsection (2).

320 (c) A taxpayer may revoke an election to receive the notice required by this section by  
321 electronic means if the taxpayer provides written notice to the county auditor on or before April  
322 30.

323 (d) An election or a revocation of an election under this Subsection ~~[(4)]~~ (5):

324 (i) does not relieve a taxpayer of the duty to pay a tax due under this chapter on or  
325 before the due date for paying the tax; or

326 (ii) does not alter the requirement that a taxpayer appealing the valuation or the  
327 equalization of the taxpayer's real property submit the application for appeal within the time  
328 period provided in Subsection 59-2-1004(3).

329 (e) A county auditor shall provide the notice required by this section as provided in  
330 Subsection (2), until a taxpayer makes a new election in accordance with this Subsection ~~[(4)]~~  
331 (5), if:

332 (i) the taxpayer revokes an election in accordance with Subsection ~~[(4)]~~(5)(c) to receive  
333 the notice required by this section by electronic means; or

334 (ii) the county auditor finds that the taxpayer's electronic contact information is invalid.

335 (f) A person is considered to be a taxpayer for purposes of this Subsection ~~[(4)]~~ (5)

336 regardless of whether the property that is the subject of the notice required by this section is  
337 exempt from taxation.

338           Section 3. **Retrospective operation.**

339           The actions affecting Section [59-2-919.1](#) have retrospective operation to January 1,  
340 2020.