

## HB0164S03 compared with HB0164S02

~~text~~ shows text that was in HB0164S02 but was deleted in HB0164S03.

text shows text that was not in HB0164S02 but was inserted into HB0164S03.

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Senator ~~Curtis S. Bramble~~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

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- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill provides retrospective operation.

### Utah Code Sections Affected:

AMENDS:

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

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

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

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

**59-2-103.5. Procedures to obtain an exemption for residential property --**

**Procedure if property owner or property no longer qualifies to receive a residential exemption.**

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

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

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

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

(2) (a) The application described in Subsection (1) shall:

(i) be on a form the commission prescribes by rule and makes available to the counties;

(ii) be signed by all of the owners of the residential property;

(iii) certify that the residential property is residential property; and

(iv) contain other information as the commission requires by rule.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

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commission may make rules prescribing the contents of the form described in Subsection (2)(a).

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

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

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

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

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

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

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

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

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

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

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

(ii) notifying the county board of equalization that the property owner no longer

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qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence; and

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

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

(a) changes primary residences;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(ii) the address listed on the:~~

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

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

~~(iii) the address listed on the:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) in substantially the following form:

### "Residential Property Declaration

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

### Residential Property Owner Information

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

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

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

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

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

### Certification

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

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

Yes                      No

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

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

Yes                      No

[<sup>1</sup>]If a property owner or a property owner's spouse claims a residential exemption under Utah Code Ann. § 59-2-103 for property in this state that is the primary residence of the property owner or the property owner's spouse, that claim of a residential exemption creates a rebuttable presumption that the property owner and the property owner's spouse have domicile in Utah for income tax purposes. The rebuttable presumption of domicile does not apply if the residential property is the primary residence of a tenant of the property owner or the property owner's spouse.[<sup>1</sup>]

Signature {f(s)}

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

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

\_\_\_\_\_ ({First owner} Owner signature)

{ \_\_\_\_\_ Date} \_\_\_\_\_ Date (mm/dd/yyyy)

\_\_\_\_\_ ({First owner} Owner printed name)

{ \_\_\_\_\_ (Second owner signature) \_\_\_\_\_ Date (mm/dd/yyyy)

\_\_\_\_\_ (Second owner printed name)."

{ (f) For purposes of a written declaration described in this Subsection (8), a county may not request information from a property owner beyond the information provided in Subsection

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(8)(e).

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

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

(A) redetermine the property's qualification to receive a residential exemption; and

(B) notify the claimant of the redetermination and its reason for the redetermination.

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

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

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

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

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

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

~~[(i) (i) [The] Except as provided in Subsection (8)(i)(ii), the~~ requirements of this Subsection (8) do not apply to a county assessor in a county that has, for the five calendar years prior to 2019, had in place and enforced an ordinance described in Subsection (1).~~[(i) (i) [The] Except as provided in Subsection (8)(i)(ii), the~~



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(ii) Subsection (8)(f) applies to a county assessor in a county described in Subsection

(8)(i)(i).

Section 2. Section **59-2-919.1** is amended to read:

### **59-2-919.1. Notice of property valuation and tax changes.**

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

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

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

(i) the county board of equalization meets; and

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

(b) be on a form that is:

(i) approved by the commission; and

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

(c) contain for each property:

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

(ii) the taxable value of the property;

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

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

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

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

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

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

and

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

(vi) the following, stated separately:

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

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

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

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

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

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

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

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

(A) taxpayer relief;

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

(C) collection procedures; and

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

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

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

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

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

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

(b) the difference between the dollar amount of the taxpayer's tax liability if the proposed increase is approved and the dollar amount of the taxpayer's tax liability under the current rate, placed in close proximity to the information described in Subsection (2)(c)~~[(v)]~~(viii); and

(c) the percentage increase that the dollar amount of the taxpayer's tax liability under

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the proposed tax rate represents as compared to the dollar amount of the taxpayer's tax liability under the current tax rate.

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

(a) the difference between the dollar amount of the taxpayer's tax liability under the current tax rate and the dollar amount of the taxpayer's tax liability before the change to state law became effective; and

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

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

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

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

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

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

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

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

(e) A county auditor shall provide the notice required by this section as provided in

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Subsection (2), until a taxpayer makes a new election in accordance with this Subsection [~~(4)~~]  
(5), if:

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

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

(f) A person is considered to be a taxpayer for purposes of this Subsection [~~(4)~~](5) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

### **Section 3. Retrospective operation.**

The changes to Section 59-2-919 have retrospective operation to January 1, 2020.