

PROPERTY TAX REVISIONS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Matthew H. Gwynn

LONG TITLE

General Description:

This bill modifies provisions of the Property Tax Act.

Highlighted Provisions:

This bill:

- ▶ addresses the deadline to file an application to apply a residential exemption to the value of a part-year residential property; and
- ▶ upon a showing of reasonable cause, allows a county to waive or reduce a penalty for failure to file a required signed statement of a person's real and personal property that is assessable by the assessor.

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 2020, Chapter 78

59-2-307, as last amended by Laws of Utah 2011, Chapter 163

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

30 **exemption.**

31 (1) Subject to Subsection (8), for residential property other than part-year residential
32 property, a county legislative body may adopt an ordinance that requires an owner to file an
33 application with the county board of equalization before a residential exemption under Section
34 [59-2-103](#) may be applied to the value of the residential property if:

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

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

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

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

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

44 (ii) shall be signed by the owner of the residential property; and

45 (iii) may not request the sales price of the residential property.

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

49 (c) For purposes of the application described in Subsection (1), a county may not
50 request information from an owner of a residential property beyond the information provided in
51 the form prescribed by the commission under this Subsection (2).

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

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

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

58 certifies:

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

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

63 (C) that the owner, or a member of the owner's household, may not claim a residential
64 exemption for any property for the calendar year for which the owner seeks to obtain the
65 residential exemption, other than the part-year residential property, or as allowed under Section
66 59-2-103 with respect to the primary residence or household furnishings, furniture, and
67 equipment of the owner's tenant.

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

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

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

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

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

80 (ii) notifying the county board of equalization that the property owner no longer
81 qualifies to receive a residential exemption authorized under Section 59-2-103 for the property
82 owner's primary residence; and

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

86 owner's primary residence, that the property owner no longer qualifies to receive a residential
87 exemption authorized under Section 59-2-103 for the property owner's primary residence.

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

90 (a) changes primary residences;

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

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

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

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

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

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

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

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

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

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

119 (ii) the address listed on the:

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

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

122 (iii) the address listed on the:

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

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

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

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

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

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

135 (e) The written declaration required by Subsection (8)(d) shall be:

136 (i) signed by the owner of the residential property; and

137 (ii) in substantially the following form:

138 "Residential Property Declaration

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

142 residential property.

143 Residential Property Owner Information

144 Name(s): _____

145 Home Phone: _____

146 Work Phone: _____

147 Mailing Address: _____

148 Residential Property Information

149 Physical Address: _____

150 Certification

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

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

156 Yes No

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

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

161 Yes No

162 If a property owner or a property owner's spouse claims a residential exemption under
163 Utah Code Ann. § 59-2-103 for property in this state that is the primary residence of the
164 property owner or the property owner's spouse, that claim of a residential exemption creates a
165 rebuttable presumption that the property owner and the property owner's spouse have domicile
166 in Utah for income tax purposes. The rebuttable presumption of domicile does not apply if the
167 residential property is the primary residence of a tenant of the property owner or the property
168 owner's spouse.

169 Signature

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

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

173 _____(Owner signature) _____Date (mm/dd/yyyy)

174 _____(Owner printed name)

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

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

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

183 (ii) The redetermination provided in Subsection (8)(g)(i)(A) is final unless appealed
184 within 30 days after the notice required by Subsection (8)(g)(i)(B).

185 (h) (i) If a residential property owner fails to file a written declaration required by
186 Subsection (8)(d), the county assessor shall mail to the owner of the residential property a
187 notice that:

188 (A) the property owner failed to file a written declaration as required by Subsection
189 (8)(d); and

190 (B) the property owner will no longer qualify to receive the residential exemption
191 authorized under Section 59-2-103 for the property that is the subject of the written declaration
192 if the property owner does not file the written declaration required by Subsection (8)(d) within
193 30 days after the day on which the county assessor mails the notice under this Subsection
194 (8)(h)(i).

195 (ii) If a property owner fails to file a written declaration required by Subsection (8)(d)
196 after receiving the notice described in Subsection (8)(h)(i), the property owner no longer
197 qualifies to receive the residential exemption authorized under Section 59-2-103 in the calendar

198 year for the property that is the subject of the written declaration.

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

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

205 Section 2. Section **59-2-307** is amended to read:

206 **59-2-307. Refusal by taxpayer to file signed statement -- Penalty -- Assessor to**
207 **estimate value -- Reporting information to other counties.**

208 (1) (a) Each person who fails to file the signed statement required by Section [59-2-306](#),
209 fails to file the signed statement with respect to name and place of residence, or fails to appear
210 and testify when requested by the assessor, shall pay a penalty equal to 10% of the estimated
211 tax due, but not less than \$25 for each failure to file a signed and completed statement.

212 (b) Each penalty under Subsection (1)(a) shall be collected in the manner provided by
213 Sections [59-2-1302](#) and [59-2-1303](#), except as otherwise provided for in this section, or by a
214 judicial proceeding brought in the name of the assessor.

215 (c) All money recovered by any assessor under this section shall be paid into the county
216 treasury.

217 ~~[(2)(a) The penalty imposed by Subsection (1)(a) may not be waived or reduced by the~~
218 ~~assessor, county, county Board of Equalization, or commission except pursuant to a procedure~~
219 ~~for the review and approval of reductions and waivers adopted by county ordinance, or by~~
220 ~~administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative~~
221 ~~Rulemaking Act.]~~

222 (2) (a) Upon a showing of reasonable cause, a county may waive or reduce a penalty
223 imposed under Subsection (1)(a).

224 (b) (i) Except as provided in Subsection (2)(b)(ii), a penalty under Subsection (1)(a)
225 may be imposed on or after May 16 of the year the statement described in Section [59-2-306](#) is

226 requested by the county assessor.

227 (ii) A penalty under Subsection (1)(a) may not be imposed until 30 days after the
228 postmark date of mailing of a subsequent notice if the signed statement described in Section
229 [59-2-306](#) is requested:

230 (A) on or after March 16; or

231 (B) by a county assessor of a county of the first class.

232 (3) (a) If an owner neglects or refuses to file a signed statement requested by an
233 assessor as required under Section [59-2-306](#):

234 (i) the assessor shall:

235 (A) make a record of the failure to file; and

236 (B) make an estimate of the value of the property of the owner based on known facts
237 and circumstances; and

238 (ii) the assessor of a county of the first class:

239 (A) shall make a subsequent request by mail for the signed statement, informing the
240 owner of the consequences of not filing a signed statement; and

241 (B) may impose a fee for the actual and necessary expenses of the mailing under
242 Subsection (3)(a)(ii)(A).

243 (b) The value fixed by the assessor in accordance with Subsection (3)(a)(i) may not be
244 reduced by the county board of equalization or by the commission.

245 (4) If the signed statement discloses property in any other county, the assessor shall file
246 the signed statement and send a copy to the assessor of each county in which the property is
247 located.

248 **Section 3. Retrospective operation.**

249 The actions affecting Section [59-2-103.5](#) have retrospective operation to January 1,
250 2021.