

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

PROPERTY TAX REVISIONS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Matthew H. Gwynn

LONG TITLE

Committee Note:

The Revenue and Taxation Interim Committee recommended this bill.

Legislative Vote: 15 voting for 0 voting against 4 absent

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



28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58

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):

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

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

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

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

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

(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

59 equalization; and

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

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

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

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

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

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

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

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

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

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

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

90 exemption authorized under Section 59-2-103 for the property owner's primary residence.

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

93 (a) changes primary residences;

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

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

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

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

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

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

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

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

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

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

121 property;

122 (ii) the address listed on the:

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

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

125 (iii) the address listed on the:

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

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

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

129 shall:

130 (i) notify the owner of the residential property that the owner is required to submit a

131 written declaration described in Subsection (8)(d) within 90 days after the day on which the

132 owner receives notice under this Subsection (8)(c); and

133 (ii) provide the owner of the residential property with the form described in Subsection

134 (8)(e) to make the written declaration described in Subsection (8)(d).

135 (d) An owner of residential property that receives a notice described in Subsection

136 (8)(a) or (c) shall submit a written declaration to the county assessor under penalty of perjury

137 certifying the information contained in the form provided in Subsection (8)(e).

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

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

140 (ii) in substantially the following form:

141 "Residential Property Declaration

142 This form must be submitted to the County Assessor's office where your new residential

143 property is located within 90 days of receipt. Failure to do so will result in the county assessor

144 taking action that could result in the withdrawal of the primary residential exemption from your

145 residential property.

146 Residential Property Owner Information

147 Name(s): _____

148 Home Phone: _____

149 Work Phone: _____

150 Mailing Address: _____

151 Residential Property Information

152 Physical Address: _____

153 Certification

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

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

159 Yes No

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

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

164 Yes No

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

172 Signature

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

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

176 _____ (Owner signature) _____ Date (mm/dd/yyyy)

177 _____ (Owner printed name)

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

181 (g) (i) If, after receiving a written declaration filed under Subsection (8)(d), the county
182 determines that the property has been incorrectly qualified or disqualified to receive a

183 residential exemption, the county shall:

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

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

186 (ii) The redetermination provided in Subsection (8)(g)(i)(A) is final unless appealed

187 within 30 days after the notice required by Subsection (8)(g)(i)(B).

188 (h) (i) If a residential property owner fails to file a written declaration required by

189 Subsection (8)(d), the county assessor shall mail to the owner of the residential property a

190 notice that:

191 (A) the property owner failed to file a written declaration as required by Subsection

192 (8)(d); and

193 (B) the property owner will no longer qualify to receive the residential exemption

194 authorized under Section 59-2-103 for the property that is the subject of the written declaration

195 if the property owner does not file the written declaration required by Subsection (8)(d) within

196 30 days after the day on which the county assessor mails the notice under this Subsection

197 (8)(h)(i).

198 (ii) If a property owner fails to file a written declaration required by Subsection (8)(d)

199 after receiving the notice described in Subsection (8)(h)(i), the property owner no longer

200 qualifies to receive the residential exemption authorized under Section 59-2-103 in the calendar

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

202 (iii) A property owner that is disqualified to receive the residential exemption under

203 Subsection (8)(h)(ii) may file an application described in Subsection (1) to determine whether

204 the owner is eligible to receive the residential exemption.

205 (i) The requirements of this Subsection (8) do not apply to a county assessor in a

206 county that has, for the five calendar years prior to 2019, had in place and enforced an

207 ordinance described in Subsection (1).

208 Section 2. Section 59-2-307 is amended to read:

209 **59-2-307. Refusal by taxpayer to file signed statement -- Penalty -- Assessor to**
210 **estimate value -- Reporting information to other counties.**

211 (1) (a) Each person who fails to file the signed statement required by Section 59-2-306,

212 fails to file the signed statement with respect to name and place of residence, or fails to appear

213 and testify when requested by the assessor, shall pay a penalty equal to 10% of the estimated

214 tax due, but not less than \$25 for each failure to file a signed and completed statement.

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

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

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

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

227 (b) (i) Except as provided in Subsection (2)(b)(ii), a penalty under Subsection (1)(a)
228 may be imposed on or after May 16 of the year the statement described in Section 59-2-306 is
229 requested by the county assessor.

230 (ii) A penalty under Subsection (1)(a) may not be imposed until 30 days after the
231 postmark date of mailing of a subsequent notice if the signed statement described in Section
232 59-2-306 is requested:

233 (A) on or after March 16; or

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

235 (3) (a) If an owner neglects or refuses to file a signed statement requested by an
236 assessor as required under Section 59-2-306:

237 (i) the assessor shall:

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

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

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

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

244 (B) may impose a fee for the actual and necessary expenses of the mailing under

245 Subsection (3)(a)(ii)(A).

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

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

251 Section 3. **Retrospective operation.**

252 The actions affecting Section [59-2-103.5](#) have retrospective operation to January 1,
253 2021.