

# HB0187S01 compared with HB0187

~~{deleted text}~~ shows text that was in HB0187 but was deleted in HB0187S01.

inserted text shows text that was not in HB0187 but was inserted into HB0187S01.

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~~{AGRICULTURAL}~~ Representative Michael L. Kohler proposes the following substitute bill:

## URBAN FARMING ASSESSMENT AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael L. Kohler**

Senate Sponsor: \_\_\_\_\_

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### LONG TITLE

#### General Description:

This bill modifies provisions of the Farmland Assessment Act and the Urban Farming Assessment Act.

#### Highlighted Provisions:

This bill:

- ▶ provides that ~~{if}~~ a ~~{person withdraws land}~~ portion of land withdrawn from assessment under the Farmland Assessment Act, ~~{any portion of the land that is assessed}~~ is not subject to a rollback tax if the land is eligible for and the owner applies for assessment under the Urban Farming Assessment Act ~~{is not subject to a rollback tax}~~;
- ▶ establishes a renewal application under the Urban Farming Assessment Act;
- ▶ for property that was previously assessed under the Farmland Assessment Act,

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addresses eligibility and application of the rollback tax under the Urban Farming Assessment Act; and

- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill provides retrospective operation.

### Utah Code Sections Affected:

AMENDS:

**59-2-506**, as last amended by Laws of Utah 2017, Chapter 319

**59-2-1703**, as last amended by Laws of Utah 2019, Chapter 492

**59-2-1705**, as last amended by Laws of Utah 2017, Chapter 319

**59-2-1707**, as last amended by Laws of Utah 2017, Chapter 319

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

Section 1. Section **59-2-506** is amended to read:

**59-2-506. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien --**

**Interest -- Notice -- Collection -- Distribution.**

(1) Except as provided in this section, Section 59-2-506.5, or Section 59-2-511, if land is withdrawn from this part, the land is subject to a rollback tax imposed in accordance with this section.

(2) (a) An owner shall notify the county assessor that land is withdrawn from this part within 120 days after the day on which the land is withdrawn from this part.

(b) An owner that fails to notify the county assessor under Subsection (2)(a) that land is withdrawn from this part is subject to a penalty equal to the greater of:

(i) \$10; or

(ii) 2% of the rollback tax due for the last year of the rollback period.

(3) (a) The county assessor shall determine the amount of the rollback tax by computing the difference for the rollback period described in Subsection (3)(b) between:

(i) the tax paid while the land was assessed under this part; and

(ii) the tax that would have been paid had the property not been assessed under this

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part.

(b) For purposes of this section, the rollback period is a time period that:

(i) begins on the later of:

(A) the date the land is first assessed under this part; or

(B) five years preceding the day on which the county assessor mails the notice required

by Subsection (5); and

(ii) ends the day on which the county assessor mails the notice required by Subsection (5).

(4) (a) The county treasurer shall:

(i) collect the rollback tax; and

(ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien on the property has been satisfied by:

(A) preparing a document that certifies that the rollback tax lien on the property has been satisfied; and

(B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder for recordation.

(b) The county treasurer shall pay the rollback tax collected under this section:

(i) into the county treasury; and

(ii) to the various taxing entities pro rata in accordance with the property tax levies for the current year.

(5) (a) The county assessor shall mail to an owner of the land that is subject to a rollback tax a notice that:

(i) the land is withdrawn from this part;

(ii) the land is subject to a rollback tax under this section; and

(iii) the rollback tax is delinquent if the owner of the land does not pay the tax within 30 days after the day on which the county assessor mails the notice described in this Subsection (5)(a).

(b) (i) The rollback tax is due and payable on the day the county assessor mails the notice required by Subsection (5)(a).

(ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that is withdrawn from this part does not pay the rollback tax within 30 days after the day on which

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the county assessor mails the notice required by Subsection (5)(a).

(6) (a) Subject to Subsection (6)(b), the following are a lien on the land assessed under this part:

- (i) the rollback tax; and
- (ii) interest imposed in accordance with Subsection (7).

(b) The lien described in Subsection (6)(a) shall:

- (i) arise upon the imposition of the rollback tax under this section;
- (ii) end on the day on which the rollback tax and interest imposed in accordance with

Subsection (7) are paid in full; and

- (iii) relate back to the first day of the rollback period described in Subsection (3)(b).

(7) (a) A delinquent rollback tax under this section shall accrue interest:

- (i) from the date of delinquency until paid; and
- (ii) at the interest rate established under Section 59-2-1331 and in effect on January 1

of the year in which the delinquency occurs.

(b) The county treasurer shall include in the notice required by Section 59-2-1317 a rollback tax that is delinquent on September 1 of any year and interest calculated on that delinquent amount through November 30 of the year in which the county treasurer provides the notice under Section 59-2-1317.

(8) (a) Land that becomes ineligible for assessment under this part only as a result of an amendment to this part is not subject to the rollback tax if the owner of the land notifies the county assessor, in accordance with Subsection (2), that the land is withdrawn from this part.

(b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of an event other than an amendment to this part, whether voluntary or involuntary, is subject to the rollback tax.

(9) Except as provided in Section 59-2-511, land that becomes exempt from taxation under Utah Constitution, Article XIII, Section 3, is not subject to the rollback tax if the land meets the requirements of Section 59-2-503 to be assessed under this part.

(10) Land that becomes ineligible for assessment under this part only as a result of a split estate mineral rights owner exercising the right to extract a mineral is not subject to the rollback tax:

- (a) (i) for the portion of the land required by a split estate mineral rights owner to

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extract a mineral if, after the split estate mineral rights owner exercises the right to extract a mineral, the portion of the property that remains in agricultural production still meets the acreage requirements of Section 59-2-503 for assessment under this part; or

(ii) for the entire acreage that would otherwise qualify for assessment under this part if, after the split estate mineral rights owner exercises the right to extract a mineral, the entire acreage that would otherwise qualify for assessment under this part no longer meets the acreage requirements of Section 59-2-503 for assessment under this part only due to the extraction of the mineral by the split estate mineral rights owner; and

(b) for the period of time that the property described in Subsection (10)(a) is ineligible for assessment under this part due to the extraction of a mineral by the split estate mineral rights owner.

~~(11) If a person withdraws land from this part, any portion of the withdrawn land that is~~ (a) A portion of land withdrawn from this part is not subject to the rollback tax, if the portion of land:

(i) qualifies for assessment under Part 17, Urban Farming Assessment Act; and

(ii) for the tax year immediately following withdrawal, the owner of the portion of land applies in accordance with Section 59-2-1707 for the land to be assessed under Part 17, Urban Farming Assessment Act, is not.

(b) Any remaining portion of the withdrawn land that does not satisfy the requirements of Subsection (11)(a) is subject to the rollback tax.

Section 2. Section **59-2-1703** is amended to read:

### **59-2-1703. Qualifications for urban farming assessment.**

(1) (a) For general property tax purposes, land may be assessed on the basis of the value that the land has for agricultural use if the land:

(i) is actively devoted to urban farming;

(ii) is at least one contiguous acre, but less than five acres, in size; and

(iii) (A) has been actively devoted to urban farming for at least two successive years immediately preceding the tax year for which the land is assessed under this part[-]; or

(B) was assessed under Part 5, Farmland Assessment Act, for the preceding tax year.

(b) Land that is not actively devoted to urban farming may not be assessed as provided in Subsection (1)(a), even if the land is part of a parcel that includes land actively devoted to

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urban farming.

(2) (a) In determining whether land is actively devoted to urban farming, production per acre for a given county or area and a given type of land shall be determined by using the first applicable of the following:

(i) production levels reported in the current publication of Utah Agricultural Statistics;

(ii) current crop budgets developed and published by Utah State University; or

(iii) the highest per acre value used for land assessed under the Farmland Assessment Act for the county in which the property is located.

(b) A county assessor may not assess land actively devoted to urban farming on the basis of the value that the land has for agricultural use under this part unless an owner annually files documentation with the county assessor:

(i) on a form provided by the county assessor;

(ii) demonstrating to the satisfaction of the county assessor that the land meets the production levels required under this part; and

(iii) except as provided in Subsection 59-2-1707(2)(c)(i), no later than January 30 for each tax year in which the owner applies for assessment under this part.

(3) Notwithstanding Subsection (1)(a)(ii), a county board of equalization may grant a waiver of the acreage requirements of Subsection (1)(a)(ii):

(a) on appeal by an owner; and

(b) if the owner submits documentation to the county assessor demonstrating to the satisfaction of the county assessor that:

(i) the failure to meet the acreage requirements of Subsection (1)(a)(ii) arose solely as a result of an acquisition by a governmental entity by:

(A) eminent domain; or

(B) the threat or imminence of an eminent domain proceeding;

(ii) the land is actively devoted to urban farming; and

(iii) no change occurs in the ownership of the land.

Section 3. Section **59-2-1705** is amended to read:

**59-2-1705. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien -- Interest -- Notice -- Collection -- Distribution -- Appeal to county board of equalization.**

(1) Except as provided in this section or Section 59-2-1710, land that is withdrawn

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from this part is subject to a rollback tax imposed as provided in this section.

(2) (a) An owner shall notify the county assessor that land is withdrawn from this part within 120 days after the day on which the land is withdrawn from this part.

(b) An owner who fails to notify the county assessor under Subsection (2)(a) that land is withdrawn from this part is subject to a penalty equal to the greater of:

(i) \$10; or

(ii) 2% of the rollback tax due for the last year of the rollback period.

(3) (a) The county assessor shall determine the amount of the rollback tax by computing the difference for the rollback period described in Subsection (3)(b) between:

(i) the tax paid while the land was assessed under this part; and

(ii) the tax that would have been paid had the property not been assessed under this part.

(b) For purposes of this section, the rollback period is a time period that:

(i) begins on the later of:

(A) except as provided in Subsection (3)(c), the date the land is first assessed under this part; or

(B) five years preceding the day on which the county assessor mails the notice required by Subsection (5); and

(ii) ends the day on which the county assessor mails the notice required by Subsection (5).

(c) For land that was previously assessed under Part 5, Farmland Assessment Act, the date described in Subsection (3)(b)(i)(A) is the date the land was first assessed under Part 5, Farmland Assessment Act, unless the land was subject to a rollback tax imposed under Section 59-2-506.

(4) (a) The county treasurer shall:

(i) collect the rollback tax; and

(ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien on the property has been satisfied by:

(A) preparing a document that certifies that the rollback tax lien on the property has been satisfied; and

(B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder

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for recording.

(b) The county treasurer shall pay the rollback tax collected under this section:

(i) into the county treasury; and

(ii) to the various taxing entities pro rata in accordance with the property tax levies for the current year.

(5) (a) The county assessor shall mail to an owner of the land that is subject to a rollback tax a notice that:

(i) the land is withdrawn from this part;

(ii) the land is subject to a rollback tax under this section; and

(iii) the rollback tax is delinquent if the owner of the land does not pay the tax within 30 days after the day on which the county assessor mails the notice described in this Subsection (5)(a).

(b) (i) The rollback tax is due and payable on the day the county assessor mails the notice required by Subsection (5)(a).

(ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that is withdrawn from this part does not pay the rollback tax within 30 days after the day on which the county assessor mails the notice required by Subsection (5)(a).

(6) (a) Subject to Subsection (6)(b), the rollback tax and interest imposed under Subsection (7) are a lien on the land assessed under this part.

(b) The lien described in Subsection (6)(a) shall:

(i) arise upon the imposition of the rollback tax under this section;

(ii) end on the day on which the rollback tax and interest imposed under Subsection (7) are paid in full; and

(iii) relate back to the first day of the rollback period described in Subsection (3)(b).

(7) (a) A delinquent rollback tax under this section shall accrue interest:

(i) from the date of delinquency until paid; and

(ii) at the interest rate established under Section 59-2-1331 and in effect on January 1 of the year in which the delinquency occurs.

(b) The county treasurer shall include in the notice required by Section 59-2-1317 a rollback tax that is delinquent on September 1 of any year and interest calculated on that delinquent amount through November 30 of the year in which the county treasurer provides the



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notice under Section 59-2-1317.

(8) (a) Land that becomes ineligible for assessment under this part only as a result of an amendment to this part is not subject to the rollback tax if the owner of the land notifies the county assessor, in accordance with Subsection (2), that the land is withdrawn from this part.

(b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of an event other than an amendment to this part, whether voluntary or involuntary, is subject to the rollback tax.

(9) Except as provided in Section 59-2-1710, land that becomes exempt from taxation under Utah Constitution, Article XIII, Section 3, is not subject to the rollback tax if the land meets the requirements of Section 59-2-1703 to be assessed under this part.

Section 4. Section **59-2-1707** is amended to read:

**59-2-1707. Application -- Signed statement -- Consent to creation of a lien --  
Consent to audit and review -- Notice.**

(1) For land to be assessed under this part, an owner of land eligible for assessment under this part shall annually submit [~~an application annually~~] to the county assessor of the county in which the land is located[-]:

(a) an application described in Subsection (2); or

(b) a renewal application described in Subsection (3), if:

(i) the land was assessed under this part for the preceding year; and

(ii) there have been no changes to the eligibility information provided in the most recently submitted application described in Subsection (2), other than information described in Subsection 59-2-1703(2)(b).

(2) An application required by Subsection (1) shall:

(a) be on a form:

(i) approved by the commission; and

(ii) provided to an owner:

(A) by the county assessor; and

(B) at the request of an owner;

(b) provide for the reporting of information related to this part;

(c) be submitted by:

(i) May 1 of the tax year in which assessment under Subsection (1) is requested if the

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land was not assessed under this part in the year before the application is submitted; or

(ii) the date otherwise required by this part for land that before the application being submitted has been assessed under this part;

(d) be signed by all of the owners of the land that under the application would be assessed under this part;

(e) be accompanied by the prescribed fees made payable to the county recorder;

(f) include a certification by an owner that the facts set forth in the application or signed statement are true;

(g) include a statement that the application constitutes consent by the owners of the land to the creation of a lien upon the land as provided in this part; and

(h) be recorded by the county recorder.

(3) A renewal application required by Subsection (1) shall:

(a) be on a form:

(i) approved by the commission; and

(ii) provided to an owner:

(A) by the county assessor; and

(B) at the request of an owner;

(b) provide for the reporting of the information described in Subsection 59-2-1703(2)(b);

(c) be submitted on or before January 30 of the tax year in which the owner requests assessment under this part;

(d) be signed by all of the owners of the land;

(e) be accompanied by the prescribed fees made payable to the county recorder;

(f) include a certification by an owner that the following are true:

(i) the facts set forth in the renewal application or signed statement; and

(ii) other than the information described in Subsection 59-2-1703(2)(b), the facts set forth in the most recently submitted application described in Subsection (2), as of the date the renewal application is submitted;

(g) include a statement that the renewal application constitutes consent by the owners of the land to the creation of a lien upon the land as provided in this part; and

(h) be recorded by the county recorder.

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~~[(3)]~~ (4) ~~[The]~~ An application described in Subsection (2) or a renewal application described in Subsection (3) constitutes consent by the owners of the land to the creation of a lien upon the land as provided in this part.

~~[(4)]~~ (5) (a) If the county determines that ~~[an application that was]~~ a timely filed application or a timely filed renewal application is incomplete, the county shall:

(i) notify the owner of the incomplete application or renewal application; and

(ii) allow the owner to complete the application or the renewal application within 30 days from the day on which the county provides notice to the owner.

(b) An application or a renewal application that has not been completed within 30 days of the day of the notice described in Subsection ~~[(4)(a) shall be]~~ (5)(a) is considered denied.

~~[(5)]~~ (6) (a) Except as provided in Subsections (1) ~~[and (2)]~~ through (3), a county assessor may not require an additional signed statement or application for assessment under this part.

(b) Notwithstanding Subsection ~~[(5)]~~ (6)(a), a county shall require that an owner provide notice if land is withdrawn from this part as provided in Section 59-2-1705.

~~[(6)]~~ (7) A certification under Subsection (2)(f) or (3)(f) is considered as if made under oath and subject to the same penalties as provided by law for perjury.

~~[(7)]~~ (8) (a) An owner applying for participation under this part or a purchaser or lessee that signs a statement under Subsection ~~[(8)]~~ (9) is considered to have given consent to a field audit and review by:

(i) the commission;

(ii) the county assessor; or

(iii) the commission and the county assessor.

(b) The consent described in Subsection ~~[(7)]~~ (8)(a) is a condition to the acceptance of an application or signed statement.

~~[(8)]~~ (9) An owner of land eligible for assessment under this part, because a purchaser or lessee actively devotes the land to agricultural use as required by Section 59-2-1703, may qualify the land for assessment under this part by submitting, with the application described in Subsection (2) or the renewal application described in Subsection (3), a signed statement from that purchaser or lessee certifying those facts that would be necessary to meet the requirements of Section 59-2-1703 for assessment under this part.

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### **Section 5. Retrospective operation.**

The changes to Sections 59-2-506, 59-2-1705, and 59-2-1707 have retrospective operation to May 5, 2021.