

Representative Douglas R. Welton proposes the following substitute bill:

PROPERTY TAX EXEMPTION AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas R. Welton

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies exemption provisions of the Property Tax Act.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of nonprofit entity for purposes of the exclusive use exemption;
- ▶ provides that a county board of equalization may not waive the application or annual statement requirements for an owner of certain tax exempt property;
- ▶ provides that a county board of equalization may require a property owner making an application for exemption or reduction to appear before the board of equalization;
- ▶ provides conditions under which a property owner may submit a late annual statement for certain tax exempt property;
- ▶ modifies the deadline for submitting an application to receive a property tax exemption for certain property acquired after January 1; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 This bill provides a special effective date.

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **59-2-1101**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

31 **59-2-1102**, as last amended by Laws of Utah 2019, Chapter 453



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

34 Section 1. Section **59-2-1101** is amended to read:

35 **59-2-1101. Definitions -- Exemption of certain property -- Proportional payments**
36 **for certain property -- Exception -- County legislative body authority to adopt rules or**
37 **ordinances.**

38 (1) As used in this section:

39 (a) "Charitable purposes" means:

40 (i) for property used as a nonprofit hospital or a nursing home, the standards outlined in
41 *Howell v. County Board of Cache County ex rel. IHC Hospitals, Inc.*, 881 P.2d 880 (Utah
42 1994); and

43 (ii) for property other than property described in Subsection (1)(a)(i), providing a gift
44 to the community.

45 (b) (i) "Educational purposes" means purposes carried on by an educational
46 organization that normally:

47 (A) maintains a regular faculty and curriculum; and

48 (B) has a regularly enrolled body of pupils and students.

49 (ii) "Educational purposes" includes:

50 (A) the physical or mental teaching, training, or conditioning of competitive athletes by
51 a national governing body of sport recognized by the United States Olympic Committee that
52 qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

53 (B) an activity in support of or incidental to the teaching, training, or conditioning
54 described in this Subsection (1)(b)(ii).

55 (c) "Exclusive use exemption" means a property tax exemption under Subsection
56 (3)(a)(iv), for property owned by a nonprofit entity used exclusively for one or more of the

57 following purposes:

58 (i) religious purposes;

59 (ii) charitable purposes; or

60 (iii) educational purposes.

61 (d) (i) "Farm machinery and equipment" means tractors, milking equipment and
62 storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters,
63 choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying
64 equipment, including balers and cubers, and any other machinery or equipment used primarily
65 for agricultural purposes.

66 (ii) "Farm machinery and equipment" does not include vehicles required to be
67 registered with the Motor Vehicle Division or vehicles or other equipment used for business
68 purposes other than farming.

69 (e) "Gift to the community" means:

70 (i) the lessening of a government burden; or

71 (ii) (A) the provision of a significant service to others without immediate expectation
72 of material reward;

73 (B) the use of the property is supported to a material degree by donations and gifts
74 including volunteer service;

75 (C) the recipients of the charitable activities provided on the property are not required
76 to pay for the assistance received, in whole or in part, except that if in part, to a material
77 degree;

78 (D) the beneficiaries of the charitable activities provided on the property are
79 unrestricted or, if restricted, the restriction bears a reasonable relationship to the charitable
80 objectives of the nonprofit entity that owns the property; and

81 (E) any commercial activities provided on the property are subordinate or incidental to
82 charitable activities provided on the property.

83 (f) "Government exemption" means a property tax exemption provided under
84 Subsection (3)(a)(i), (ii), or (iii).

85 (g) (i) "Nonprofit entity" means an entity:

86 (A) that is organized on a nonprofit basis, that dedicates the entity's property to the
87 entity's nonprofit purpose, and that makes no dividend or other form of financial benefit

88 available to a private interest;

89 (B) for which, upon dissolution, the entity's assets are distributable only for exempt
90 purposes under state law or to the government for a public purpose; and

91 [~~(C)~~] ~~that does not receive income from any source, including gifts, donations, or~~
92 ~~payments from recipients of products or services, that produces a profit to the entity in the~~
93 ~~sense that the income exceeds operating and long-term maintenance expenses; and]~~

94 [(~~D~~)] (C) for which none of the net earnings or donations made to the entity inure to
95 the benefit of private shareholders or other individuals, as the private inurement standard has
96 been interpreted under Section 501(c)(3), Internal Revenue Code.

97 (ii) "Nonprofit entity" includes an entity:

98 (A) if the entity is treated as a disregarded entity for federal income tax purposes and
99 wholly owned by, and controlled under the direction of, a nonprofit entity; and

100 (B) for which none of the net earnings and profits of the entity inure to the benefit of
101 any person other than a nonprofit entity.

102 (h) "Tax relief" means an exemption, deferral, or abatement that is authorized by this
103 part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

104 (2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if
105 the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

106 (b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional
107 tax based upon the length of time that the property was not owned by the claimant if:

108 (i) the claimant is a federal, state, or political subdivision entity described in
109 Subsection (3)(a)(i), (ii), or (iii); or

110 (ii) pursuant to Subsection (3)(a)(iv):

111 (A) the claimant is a nonprofit entity; and

112 (B) the property is used exclusively for religious, charitable, or educational purposes.

113 (c) Subsection (2)(a) does not apply to an exemption described in Part 19, Armed
114 Forces Exemptions.

115 (3) (a) The following property is exempt from taxation:

116 (i) property exempt under the laws of the United States;

117 (ii) property of:

118 (A) the state;

- 119 (B) school districts; and
- 120 (C) public libraries;
- 121 (iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:
- 122 (A) counties;
- 123 (B) cities;
- 124 (C) towns;
- 125 (D) local districts;
- 126 (E) special service districts; and
- 127 (F) all other political subdivisions of the state;
- 128 (iv) except as provided in Subsection (6) or (7), property owned by a nonprofit entity
- 129 used exclusively for one or more of the following purposes:
- 130 (A) religious purposes;
- 131 (B) charitable purposes; or
- 132 (C) educational purposes;
- 133 (v) places of burial not held or used for private or corporate benefit;
- 134 (vi) farm machinery and equipment;
- 135 (vii) a high tunnel, as defined in Section 10-9a-525;
- 136 (viii) intangible property; and
- 137 (ix) the ownership interest of an out-of-state public agency, as defined in Section
- 138 11-13-103:
- 139 (A) if that ownership interest is in property providing additional project capacity, as
- 140 defined in Section 11-13-103; and
- 141 (B) on which a fee in lieu of ad valorem property tax is payable under Section
- 142 11-13-302.
- 143 (b) For purposes of a property tax exemption for property of school districts under
- 144 Subsection (3)(a)(ii)(B), a charter school under Title 53G, Chapter 5, Charter Schools, is
- 145 considered to be a school district.
- 146 (4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or
- 147 a government exemption ceases to qualify for the exemption because of a change in the
- 148 ownership of the property:
- 149 (a) the new owner of the property shall pay a proportional tax based upon the period of

150 time:

151 (i) beginning on the day that the new owner acquired the property; and

152 (ii) ending on the last day of the calendar year during which the new owner acquired
153 the property; and

154 (b) the new owner of the property and the person from whom the new owner acquires
155 the property shall notify the county assessor, in writing, of the change in ownership of the
156 property within 30 days from the day that the new owner acquires the property.

157 (5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection
158 (4)(a):

159 (a) is subject to any exclusive use exemption or government exemption that the
160 property is entitled to under the new ownership of the property; and

161 (b) applies only to property that is acquired after December 31, 2005.

162 (6) (a) A property may not receive an exemption under Subsection (3)(a)(iv) if:

163 (i) the nonprofit entity that owns the property participates in or intervenes in any
164 political campaign on behalf of or in opposition to any candidate for public office, including
165 the publishing or distribution of statements; or

166 (ii) a substantial part of the activities of the nonprofit entity that owns the property
167 consists of carrying on propaganda or otherwise attempting to influence legislation, except as
168 provided under Subsection 501(h), Internal Revenue Code.

169 (b) Whether a nonprofit entity is engaged in an activity described in Subsection (6)(a)
170 shall be determined using the standards described in Section 501, Internal Revenue Code.

171 (7) A property may not receive an exemption under Subsection (3)(a)(iv) if:

172 (a) the property is used for a purpose that is not religious, charitable, or educational;
173 and

174 (b) the use for a purpose that is not religious, charitable, or educational is more than de
175 minimis.

176 (8) A county legislative body may adopt rules or ordinances to:

177 (a) effectuate the exemptions, deferrals, abatements, or other relief from taxation
178 provided in this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces
179 Exemptions; and

180 (b) designate one or more persons to perform the functions given the county under this

181 part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

182 (9) If a person is dissatisfied with a tax relief decision made under designated
183 decision-making authority as described in Subsection (8)(b), that person may appeal the
184 decision to the commission under Section [59-2-1006](#).

185 Section 2. Section **59-2-1102** is amended to read:

186 **59-2-1102. Determination of exemptions by board of equalization -- Appeal --**
187 **Application for exemption -- Annual statement -- Exceptions.**

188 (1) (a) For property assessed under Part 3, County Assessment, the county board of
189 equalization may, after giving notice in a manner prescribed by rule, determine whether certain
190 property within the county is exempt from taxation.

191 (b) The decision of the county board of equalization described in Subsection (1)(a)
192 shall:

193 (i) be in writing; and

194 (ii) include:

195 (A) a statement of facts; and

196 (B) the statutory basis for its decision.

197 (c) Except as provided in Subsection ~~[(11)]~~ (10)(a), a copy of the decision described in
198 Subsection (1)(a) shall be sent on or before May 15 to the person applying for the exemption.

199 ~~[(2) The county board of equalization shall notify an owner of exempt property that has~~
200 ~~previously received an exemption but failed to file an annual statement in accordance with~~
201 ~~Subsection (9)(c), of the county board of equalization's intent to revoke the exemption on or~~
202 ~~before April 1.]~~

203 ~~[(3)(a)]~~ (2) Except as provided in Subsection ~~[(8)]~~ (7) and subject to Subsection ~~[(9)]~~
204 (8), a reduction in the value of property may not be made under this part or Part 18, Tax
205 Deferral and Tax Abatement, ~~[in the value of property]~~ and an exemption may not be granted
206 under this part or Part 19, Armed Forces Exemptions, unless the ~~[party]~~ person affected or the
207 ~~[party's]~~ person's agent:

208 ~~[(i)]~~ (a) ~~[makes and files with the county board of equalization]~~ submits a written
209 application ~~[for the reduction or exemption,]~~ to the county board of equalization; and

210 ~~(b) [verified]~~ verifies the application by signed statement~~[-and]~~.

211 ~~[(ii) appears before the county board of equalization and shows facts upon which it is~~

212 ~~claimed the reduction should be made, or exemption granted.]~~

213 ~~[(b) Notwithstanding Subsection (9), the county board of equalization may waive:]~~

214 ~~[(i) the application or personal appearance requirements of Subsection (3)(a), (4)(b), or~~
215 ~~(9)(a); or]~~

216 ~~[(ii) the annual statement requirements of Subsection (9)(c).]~~

217 ~~[(4)] (3) (a) [Before the county board of equalization grants any application for~~
218 ~~exemption or reduction, the] The county board of equalization may ~~[examine under oath the~~
219 ~~person or agent making the application]~~ require a person making an application for exemption
220 or reduction to appear before the county board of equalization and be examined under oath.~~

221 ~~(b) [Except as provided in Subsection (3)(b)]~~ If the county board of equalization
222 requires a person making an application for exemption or reduction to appear before the county
223 board of equalization, a reduction may not be made or exemption granted unless the person ~~[or~~
224 ~~the agent making the application attends]~~ appears and answers all questions pertinent to the
225 inquiry.

226 ~~[(5)] (4)~~ For the hearing on the application, the county board of equalization may
227 subpoena any witnesses, and hear and take any evidence in relation to the pending application.

228 ~~[(6)] (5)~~ Except as provided in Subsection ~~[(11)] (10)~~(b), the county board of
229 equalization shall hold hearings and render a written decision to determine any exemption on
230 or before May 1 in each year.

231 ~~[(7)] (6)~~ Any property owner dissatisfied with the decision of the county board of
232 equalization regarding any reduction or exemption may appeal to the commission under
233 Section [59-2-1006](#).

234 ~~[(8)] (7)~~ Notwithstanding Subsection ~~[(3)(a)] (2)~~, a county board of equalization may
235 not require an owner of property to file an application in accordance with this section in order
236 to claim an exemption for the property under the following:

237 (a) Subsections [59-2-1101](#)(3)(a)(i) through (iii);

238 (b) Subsection [59-2-1101](#)(3)(a)(vi) or (viii);

239 (c) Section [59-2-1110](#);

240 (d) Section [59-2-1111](#);

241 (e) Section [59-2-1112](#);

242 (f) Section [59-2-1113](#); or

243 (g) Section 59-2-1114.

244 ~~[(9)]~~ (8) (a) Except as provided in ~~[Subsections (3)(b) and (9)(b),]~~ Subsection (8)(b),
245 for property described in Subsection 59-2-1101(3)(a)(iv) or (v), a county board of equalization
246 shall, consistent with Subsection ~~[(10)]~~ (9), require an owner of that property to file an
247 application in accordance with this section in order to claim an exemption for that property.

248 (b) Notwithstanding Subsection ~~[(9)]~~ (8)(a), a county board of equalization may not
249 require an owner of property described in Subsection 59-2-1101(3)(a)(iv) or (v) to file an
250 application under Subsection ~~[(9)]~~ (8)(a) if:

251 (i) ~~[(A)]~~ the owner filed an application under Subsection ~~[(9)(a); or]~~ (8)(a);
252 ~~[(B) the county board of equalization waived the application requirements in~~
253 ~~accordance with Subsection (3)(b);]~~

254 (ii) the county board of equalization determines that the owner may claim an
255 exemption for that property; and

256 (iii) the exemption described in Subsection ~~[(9)]~~ (8)(b)(ii) is in effect.

257 (c) (i) ~~[Except as provided in Subsection (3)(b), for]~~ For the time period that an owner
258 is granted an exemption in accordance with this section for property described in Subsection
259 59-2-1101(3)(a)(iv) or (v), a county board of equalization shall require the owner to file an
260 annual statement on or before March 1 on a form prescribed by the commission establishing
261 that the property continues to be eligible for the exemption.

262 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
263 commission shall make rules providing:

264 (A) the form for the annual statement required by Subsection ~~[(9)]~~ (8)(c)(i);

265 (B) the contents of the form for the annual statement required by Subsection ~~[(9)]~~
266 (8)(c)(i); and

267 (C) procedures and requirements for making the annual statement required by
268 Subsection ~~[(9)]~~ (8)(c)(i).

269 (iii) The commission shall make the form described in Subsection ~~[(9)]~~ (8)(c)(ii)(A)
270 available to counties.

271 (d) On or before April 1, a county board of equalization shall notify each property
272 owner who fails to timely file an annual statement in accordance with Subsection (8)(c) of the
273 county board of equalization's intent to revoke the exemption.

274 (e) An owner of exempt property described in Subsection 59-2-1101(3)(a)(iv) may file
275 the annual statement described in Subsection (8)(c) after March 1 if the property owner:

276 (i) files the annual statement on or before March 31; and

277 (ii) includes a statement of facts establishing that the property owner was unable to file
278 the annual statement on or before March 1 due to one of the following conditions and no other
279 responsible party was capable of filing the annual statement:

280 (A) a medical emergency of the property owner, an immediate family member of the
281 property owner, or the property owner's agent;

282 (B) the death of the property owner, an immediate family member of the property
283 owner, or the property owner's agent; or

284 (C) other extraordinary and unanticipated circumstances.

285 ~~[(10)]~~ (9) (a) For purposes of this Subsection ~~[(10)]~~ (9), "exclusive use exemption" is
286 as defined in Section 59-2-1101.

287 (b) ~~[(11)]~~ For purposes of Subsection (1)(a), ~~[and except as provided in Subsections~~
288 ~~(10)(b)(ii) and (iii);]~~ when a person acquires property on or after January 1 that qualifies for an
289 exclusive use exemption, that person may apply for the exclusive use exemption on or before
290 the later of:

291 ~~[(A)]~~ (i) the day set by rule as the deadline for filing a property tax exemption
292 application; or

293 ~~[(B)]~~ (ii) ~~[30]~~ 120 days after the day on which the property is acquired.

294 ~~[(ii) Notwithstanding Subsection (10)(b)(i), a person who acquires property on or after~~
295 ~~January 1, 2004, and before January 1, 2005, that qualifies for an exclusive use exemption, may~~
296 ~~apply for the exclusive use exemption for the 2004 calendar year on or before September 30,~~
297 ~~2005.]~~

298 ~~[(iii) Notwithstanding Subsection (10)(b)(i), a person who acquires property on or after~~
299 ~~January 1, 2005, and before January 1, 2006, that qualifies for an exclusive use exemption, may~~
300 ~~apply for the exclusive use exemption for the 2005 calendar year on or before the later of:]~~

301 ~~[(A) September 30, 2005; or]~~

302 ~~[(B) 30 days after the day on which the property is acquired.]~~

303 ~~[(11)]~~ (10) (a) Notwithstanding Subsection (1)(c), if an application for an exemption is
304 filed under Subsection ~~[(10)]~~ (9), a county board of equalization shall send a copy of the

305 decision described in Subsection (1)(c) to the person applying for the exemption on or before
306 the later of:

307 (i) May 15; or

308 (ii) 45 days after the day on which the application for the exemption is filed.

309 (b) Notwithstanding Subsection [~~(6)~~] (5), if an application for an exemption is filed
310 under Subsection [~~(10)~~] (9), a county board of equalization shall hold the hearing and render
311 the decision described in Subsection [~~(6)~~] (5) on or before the later of:

312 (i) May 1; or

313 (ii) 30 days after the day on which the application for the exemption is filed.

314 Section 3. **Effective date.**

315 This bill takes effect on January 1, 2023.