

1 **LOW INCOME HOUSING PROPERTY TAX EXEMPTION**

2 2023 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Steve Eliason**

5 Senate Sponsor: Lincoln Fillmore

7 **LONG TITLE**

8 **General Description:**

9 This bill amends the definitions related to property tax exemptions in the Property Tax
10 Act.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ provides the circumstances under which a private owner of property used as
14 permanent supportive housing qualifies as a "nonprofit entity" for purposes of the
15 exclusive use property tax exemption.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 This bill provides retrospective operation.

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **59-2-1101**, as last amended by Laws of Utah 2022, Chapter 235

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

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

26 **59-2-1101. Definitions -- Exemption of certain property -- Proportional payments**
27 **for certain property -- Exception -- County legislative body authority to adopt rules or**
28 **ordinances.**

29 (1) As used in this section:

30 (a) "Charitable purposes" means:
31 (i) for property used as a nonprofit hospital or a nursing home, the standards outlined in
32 *Howell v. County Board of Cache County ex rel. IHC Hospitals, Inc.*, 881 P.2d 880 (Utah
33 1994); and
34 (ii) for property other than property described in Subsection (1)(a)(i), providing a gift
35 to the community.

36 (b) "Compliance period" means a period equal to 15 taxable years beginning with the
37 first taxable year for which the taxpayer claims a tax credit under Section 42, Internal Revenue
38 Code, or Section [59-7-607](#) or [59-10-1010](#).

39 ~~[(b)]~~ (c) (i) "Educational purposes" means purposes carried on by an educational
40 organization that normally:
41 (A) maintains a regular faculty and curriculum; and
42 (B) has a regularly enrolled body of pupils and students.

43 (ii) "Educational purposes" includes:
44 (A) the physical or mental teaching, training, or conditioning of competitive athletes by
45 a national governing body of sport recognized by the United States Olympic Committee that
46 qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and
47 (B) an activity in support of or incidental to the teaching, training, or conditioning
48 described in this Subsection ~~[(1)(b)(ii)]~~ (1)(c)(ii).

49 ~~[(c)]~~ (d) "Exclusive use exemption" means a property tax exemption under Subsection
50 (3)(a)(iv), for property owned by a nonprofit entity used exclusively for one or more of the
51 following purposes:
52 (i) religious purposes;
53 (ii) charitable purposes; or
54 (iii) educational purposes.

55 ~~[(d)]~~ (e) (i) "Farm machinery and equipment" means tractors, milking equipment and
56 storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters,
57 choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying

58 equipment, including balers and cubers, and any other machinery or equipment used primarily
59 for agricultural purposes.

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

63 [~~(e)~~] (f) "Gift to the community" means:

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

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

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

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

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

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

77 [~~(f)~~] (g) "Government exemption" means a property tax exemption provided under
78 Subsection (3)(a)(i), (ii), or (iii).

79 [~~(g)~~] (h) (i) "Nonprofit entity" means an entity:

80 (A) that is organized on a nonprofit basis, that dedicates the entity's property to the
81 entity's nonprofit purpose, and that makes no dividend or other form of financial benefit
82 available to a private interest;

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

85 (C) for which none of the net earnings or donations made to the entity inure to the

86 benefit of private shareholders or other individuals, as the private inurement standard has been
87 interpreted under Section 501(c)(3), Internal Revenue Code.

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

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

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

93 (iii) "Nonprofit entity" includes an entity that is not an entity described in Subsection
94 (1)(h)(i) if the entity jointly owns a property that:

95 (A) is used for the purpose of providing permanent supportive housing;

96 (B) has an owner that is an entity described in Subsection (1)(h)(i) or that is a housing
97 authority that operates the permanent supportive housing;

98 (C) has an owner that receives public funding from a federal, state, or local government
99 entity to provide support services and rental subsidies to the permanent supportive housing;

100 (D) is intended to be transferred at or before the end of the compliance period to an
101 entity described in Subsection (1)(h)(i) or a housing authority that will continue to operate the
102 property as permanent supportive housing; and

103 (E) has been certified by the Utah Housing Corporation as meeting the requirements
104 described in Subsections (1)(h)(iii)(A) through (D).

105 (i) "Permanent supportive housing" means a housing facility that:

106 (i) provides supportive services;

107 (ii) makes a 15-year commitment to provide rent subsidies to tenants of the housing
108 facility when the housing facility is placed in service;

109 (iii) receives an allocation of federal low-income housing tax credits in accordance
110 with 26 U.S.C. Sec. 42; and

111 (iv) leases each unit to a tenant:

112 (A) who, immediately before leasing the housing, was homeless as defined in 24
113 C.F.R. 583.5; and

114 (B) whose rent is capped at no more than 30% of the tenant's household income.

115 (j) "Supportive service" means a service that is an eligible cost under 24 C.F.R. 578.53.

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

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

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

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

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

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

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

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

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

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

131 (ii) property of:

132 (A) the state;

133 (B) school districts; and

134 (C) public libraries;

135 (iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

136 (A) counties;

137 (B) cities;

138 (C) towns;

139 (D) local districts;

140 (E) special service districts; and

141 (F) all other political subdivisions of the state;

142 (iv) except as provided in Subsection (6) or (7), property owned by a nonprofit entity
143 used exclusively for one or more of the following purposes:

144 (A) religious purposes;

145 (B) charitable purposes; or

146 (C) educational purposes;

147 (v) places of burial not held or used for private or corporate benefit;

148 (vi) farm machinery and equipment;

149 (vii) a high tunnel, as defined in Section 10-9a-525;

150 (viii) intangible property; and

151 (ix) the ownership interest of an out-of-state public agency, as defined in Section

152 11-13-103:

153 (A) if that ownership interest is in property providing additional project capacity, as
154 defined in Section 11-13-103; and

155 (B) on which a fee in lieu of ad valorem property tax is payable under Section

156 11-13-302.

157 (b) For purposes of a property tax exemption for property of school districts under
158 Subsection (3)(a)(ii)(B), a charter school under Title 53G, Chapter 5, Charter Schools, is
159 considered to be a school district.

160 (4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or
161 a government exemption ceases to qualify for the exemption because of a change in the
162 ownership of the property:

163 (a) the new owner of the property shall pay a proportional tax based upon the period of
164 time:

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

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

168 (b) the new owner of the property and the person from whom the new owner acquires
169 the property shall notify the county assessor, in writing, of the change in ownership of the

170 property within 30 days from the day that the new owner acquires the property.

171 (5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection
172 (4)(a):

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

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

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

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

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

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

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

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

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

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

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

194 (b) designate one or more persons to perform the functions given the county under this
195 part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

196 (9) If a person is dissatisfied with a tax relief decision made under designated
197 decision-making authority as described in Subsection (8)(b), that person may appeal the

198 decision to the commission under Section 59-2-1006.

199 Section 2. **Retrospective operation.**

200 This bill has retrospective operation to January 1, 2023.