

1 **URBAN FARMING ASSESSMENT AMENDMENTS**

2 2023 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Michael L. Kohler**

5 Senate Sponsor: David P. Hinkins

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions relating to property tax assessment of agricultural land.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ provides that a portion of land withdrawn from assessment under the Farmland
13 Assessment Act is not subject to a rollback tax if the land is eligible for, and the
14 owner applies for, assessment under the Urban Farming Assessment Act;

15 ▶ establishes a renewal application under the Urban Farming Assessment Act;

16 ▶ for property that was previously assessed under the Farmland Assessment Act,
17 addresses eligibility and application of the rollback tax under the Urban Farming
18 Assessment Act; and

19 ▶ makes technical and conforming changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 This bill provides retrospective operation.

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **59-2-506**, as last amended by Laws of Utah 2017, Chapter 319

27 **59-2-1703**, as last amended by Laws of Utah 2019, Chapter 492

28 **59-2-1705**, as last amended by Laws of Utah 2017, Chapter 319

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(1) Except as provided in this section, Section [59-2-506.5](#), or Section [59-2-511](#), if land is withdrawn from this part, the land is subject to a rollback tax imposed in accordance with this section.

(2) (a) An owner shall notify the county assessor that land is withdrawn from this part within 120 days after the day on which the land is withdrawn from this part.

(b) An owner that fails to notify the county assessor under Subsection (2)(a) that land is withdrawn from this part is subject to a penalty equal to the greater of: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

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

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

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

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

65 (i) into the county treasury; and

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

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

70 (i) the land is withdrawn from this part;

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

72 (iii) the rollback tax is delinquent if the owner of the land does not pay the tax within
73 30 days after the day on which the county assessor mails the notice described in this Subsection
74 (5)(a).

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

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

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

82 (i) the rollback tax; and

83 (ii) interest imposed in accordance with Subsection (7).

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

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

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

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

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

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

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

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

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

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

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

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

109 (a) (i) for the portion of the land required by a split estate mineral rights owner to
110 extract a mineral if, after the split estate mineral rights owner exercises the right to extract a
111 mineral, the portion of the property that remains in agricultural production still meets the
112 acreage requirements of Section 59-2-503 for assessment under this part; or

113 (ii) for the entire acreage that would otherwise qualify for assessment under this part if,

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

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

121 (11) (a) A portion of land withdrawn from this part is not subject to the rollback tax if
122 the portion of land:

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

124 (ii) for the tax year immediately following withdrawal, the owner of the portion of land
125 applies in accordance with Section 59-2-1707 for the land to be assessed under Part 17, Urban
126 Farming Assessment Act.

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

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

130 **59-2-1703. Qualifications for urban farming assessment.**

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

133 (i) is actively devoted to urban farming;

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

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

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

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

141 (2) (a) In determining whether land is actively devoted to urban farming, production

142 per acre for a given county or area and a given type of land shall be determined by using the
143 first applicable of the following:

- 144 (i) production levels reported in the current publication of Utah Agricultural Statistics;
- 145 (ii) current crop budgets developed and published by Utah State University; or
- 146 (iii) the highest per acre value used for land assessed under the Farmland Assessment
147 Act for the county in which the property is located.

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

- 151 (i) on a form provided by the county assessor;
- 152 (ii) demonstrating to the satisfaction of the county assessor that the land meets the
153 production levels required under this part; and
- 154 (iii) except as provided in Subsection 59-2-1707(2)(c)(i), no later than January 30 for
155 each tax year in which the owner applies for assessment under this part.

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

- 158 (a) on appeal by an owner; and
- 159 (b) if the owner submits documentation to the county assessor demonstrating to the
160 satisfaction of the county assessor that:
 - 161 (i) the failure to meet the acreage requirements of Subsection (1)(a)(ii) arose solely as a
162 result of an acquisition by a governmental entity by:
 - 163 (A) eminent domain; or
 - 164 (B) the threat or imminence of an eminent domain proceeding;
 - 165 (ii) the land is actively devoted to urban farming; and
 - 166 (iii) no change occurs in the ownership of the land.

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

168 **59-2-1705. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien --**
169 **Interest -- Notice -- Collection -- Distribution.**

170 (1) Except as provided in this section or Section 59-2-1710, land that is withdrawn
171 from this part is subject to a rollback tax imposed as provided in this section.

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

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

176 (i) \$10; or

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

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

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

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

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

184 (i) begins on the later of:

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

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

189 (ii) ends the day on which the county assessor mails the notice required by Subsection
190 (5).

191 (c) For land that was previously assessed under Part 5, Farmland Assessment Act, the
192 date described in Subsection (3)(b)(i)(A) is the date the land was first assessed under Part 5,
193 Farmland Assessment Act, unless the land was subject to a rollback tax imposed under Section
194 59-2-506.

195 (4) (a) The county treasurer shall:

196 (i) collect the rollback tax; and

197 (ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien

198 on the property has been satisfied by:

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

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

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

204 (i) into the county treasury; and

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

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

209 (i) the land is withdrawn from this part;

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

211 (iii) the rollback tax is delinquent if the owner of the land does not pay the tax within
212 30 days after the day on which the county assessor mails the notice described in this Subsection
213 (5)(a).

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

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

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

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

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

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

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

226 (7) (a) A delinquent rollback tax under this section shall accrue interest:
 227 (i) from the date of delinquency until paid; and
 228 (ii) at the interest rate established under Section 59-2-1331 and in effect on January 1
 229 of the year in which the delinquency occurs.

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

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

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

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

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

244 **59-2-1707. Application -- Signed statement -- Consent to creation of a lien --**
 245 **Consent to audit and review -- Notice.**

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

- 249 (a) an application described in Subsection (2); or
- 250 (b) a renewal application described in Subsection (3) if:
 - 251 (i) the land was assessed under this part for the preceding tax year; and
 - 252 (ii) there have been no changes to the eligibility information provided in the most
 253 recently submitted application described in Subsection (2), other than the information

254 described in Subsection 59-2-1703(2)(b).

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

256 (a) be on a form:

257 (i) approved by the commission; and

258 (ii) provided to an owner:

259 (A) by the county assessor; and

260 (B) at the request of an owner;

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

262 (c) be submitted by:

263 (i) May 1 of the tax year in which assessment under Subsection (1) is requested if the
264 land was not assessed under this part in the year before the application is submitted; or

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

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

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

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

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

274 (h) be recorded by the county recorder.

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

276 (a) be on a form:

277 (i) approved by the commission; and

278 (ii) provided to an owner:

279 (A) by the county assessor; and

280 (B) at the request of an owner;

281 (b) provide for the reporting of the information described in Subsection

282 [59-2-1703\(2\)\(b\)](#);

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

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

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

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

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

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

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

294 (h) be recorded by the county recorder.

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

298 ~~[(4)]~~ (5) (a) If the county determines that [an application that was] a timely filed
299 application or a timely filed renewal application is incomplete, the county shall:

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

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

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

305 ~~[(5)]~~ (6) (a) Except as provided in Subsections (1) ~~[and (2)]~~ through (3), a county
306 assessor may not require an additional signed statement or application for assessment under
307 this part.

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

310 ~~[(6)]~~ (7) A certification under Subsection (2)(f) or (3)(f) is considered as if made under
311 oath and subject to the same penalties as provided by law for perjury.

312 ~~[(7)]~~ (8) (a) An owner applying for participation under this part or a purchaser or lessee
313 that signs a statement under Subsection ~~[(8)]~~ (9) is considered to have given consent to a field
314 audit and review by:

- 315 (i) the commission;
- 316 (ii) the county assessor; or
- 317 (iii) the commission and the county assessor.

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

320 ~~[(8)]~~ (9) An owner of land eligible for assessment under this part, because a purchaser
321 or lessee actively devotes the land to agricultural use as required by Section [59-2-1703](#), may
322 qualify the land for assessment under this part by submitting, with the application described in
323 Subsection (2) or the renewal application described in Subsection (3), a signed statement from
324 that purchaser or lessee certifying those facts that would be necessary to meet the requirements
325 of Section [59-2-1703](#) for assessment under this part.

326 Section 5. **Retrospective operation.**

327 The following sections have retrospective operation to January 1, 2023:

328 (1) Section [59-2-506](#); and

329 (2) Section [59-2-1705](#).