

Representative Joel K. Briscoe proposes the following substitute bill:

PROPERTY TAX ASSESSMENT APPEAL AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joel K. Briscoe

Senate Sponsor: Daniel Hemmert

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- requires the county assessor to notify an owner of an incomplete application for assessment under the Farmland Assessment Act or the Urban Farming Assessment Act;
- describes the circumstances when an incomplete application is considered denied;
- establishes the time periods for filing an appeal under the Farmland Assessment Act and the Urban Farming Assessment Act; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



26 **59-2-502**, as last amended by Laws of Utah 2005, Chapter 254
27 **59-2-506**, as last amended by Laws of Utah 2014, Chapter 279
28 **59-2-508**, as last amended by Laws of Utah 2003, Chapter 208
29 **59-2-1705**, as last amended by Laws of Utah 2014, Chapters 279 and 413
30 **59-2-1707**, as enacted by Laws of Utah 2012, Chapter 197

31 ENACTS:

32 **59-2-516**, Utah Code Annotated 1953
33 **59-2-1713**, Utah Code Annotated 1953

34

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

36 Section 1. Section **59-2-502** is amended to read:

37 **59-2-502. Definitions.**

38 As used in this part:

39 (1) "Actively devoted to agricultural use" means that the land in agricultural use
40 produces in excess of 50% of the average agricultural production per acre:

41 (a) as determined under Section **59-2-503**; and

42 (b) for:

43 (i) the given type of land; and

44 (ii) the given county or area.

45 (2) "Conservation easement rollback tax" means the tax imposed under Section
46 **59-2-506.5**.

47 (3) "Identical legal ownership" means legal ownership held by:

48 (a) identical legal parties; or

49 (b) identical legal entities.

50 (4) "Land in agricultural use" means:

51 (a) land devoted to the raising of useful plants and animals with a reasonable
52 expectation of profit, including:

53 (i) forages and sod crops;

54 (ii) grains and feed crops;

55 (iii) livestock as defined in Section **59-2-102**;

56 (iv) trees and fruits; or

- 57 (v) vegetables, nursery, floral, and ornamental stock; or
58 (b) land devoted to and meeting the requirements and qualifications for payments or
59 other compensation under a crop-land retirement program with an agency of the state or federal
60 government.
- 61 (5) "Other eligible acreage" means land that is:
62 (a) five or more contiguous acres;
63 (b) eligible for assessment under this part; and
64 (c) (i) located in the same county as land described in Subsection 59-2-503(1)(a); or
65 (ii) contiguous across county lines with land described in Subsection 59-2-503(1)(a) as
66 provided in Section 59-2-512.
- 67 (6) "Platted" means land in which:
68 (a) parcels of ground are laid out and mapped by their boundaries, course, and extent;
69 and
70 (b) the plat has been approved as provided in Section 10-9a-604 or 17-27a-604.
- 71 (7) "Rollback tax" means the tax imposed under Section 59-2-506.
- 72 (8) "Withdrawn from this part" means that land that has been assessed under this part is
73 no longer assessed under this part or eligible for assessment under this part for any reason
74 including that:
- 75 (a) an owner voluntarily requests that the land be withdrawn from this part;
76 (b) the land is no longer actively devoted to agricultural use;
77 (c) (i) the land has a change in ownership; and
78 (ii) (A) the new owner fails to apply for assessment under this part as required by
79 Section 59-2-509; or
80 (B) (I) an owner applies for assessment under this part as required by Section
81 59-2-509; and
82 (II) the land does not meet the requirements of this part to be assessed under this part;
83 (d) (i) the legal description of the land changes; and
84 (ii) (A) an owner fails to apply for assessment under this part as required by Section
85 59-2-509; or
86 (B) (I) an owner applies for assessment under this part as required by Section
87 59-2-509; and

(II) the land does not meet the requirements of this part to be assessed under this part;
(e) if required by the county assessor, the owner of the land:
(i) fails to file a new application as provided in Subsection 59-2-508~~(4)~~(5); or
(ii) fails to file a signed statement as provided in Subsection 59-2-508~~(4)~~(5); or
(f) except as provided in Section 59-2-503, the land fails to meet a requirement of
Section 59-2-503.

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

**59-2-506. 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, 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:

119 (i) collect the rollback tax; and
120 (ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien
121 on the property has been satisfied by:
122 (A) preparing a document that certifies that the rollback tax lien on the property has
123 been satisfied; and
124 (B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder
125 for recordation.
126 (b) The county treasurer shall pay the rollback tax collected under this section ~~[shall]~~:
127 (i) ~~[be paid]~~ into the county treasury; and
128 (ii) ~~[be paid by the county treasurer]~~ to the various taxing entities pro rata in
129 accordance with the property tax levies for the current year.
130 (5) (a) The county assessor shall mail to an owner of the land that is subject to a
131 rollback tax a notice that:
132 (i) the land is withdrawn from this part;
133 (ii) the land is subject to a rollback tax under this section; and
134 (iii) the rollback tax is delinquent if the owner of the land does not pay the tax within
135 30 days after the day on which the county assessor mails the notice described in this Subsection
136 (5)(a).
137 (b) (i) The rollback tax is due and payable on the day the county assessor mails the
138 notice required by Subsection (5)(a).
139 (ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that
140 is withdrawn from this part does not pay the rollback tax within 30 days after the day on which
141 the county assessor mails the notice required by Subsection (5)(a).
142 (6) (a) Subject to Subsection (6)(b), the following are a lien on the land assessed under
143 this part:
144 (i) the rollback tax; and
145 (ii) interest imposed in accordance with Subsection (7).
146 (b) The lien described in Subsection (6)(a) shall:
147 (i) arise upon the imposition of the rollback tax under this section;
148 (ii) end on the day on which the rollback tax and interest imposed in accordance with
149 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) [A] 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 [shall be included on the notice required by Section 59-2-1317, along with] 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 [~~in accordance with Subsection (2)~~].

(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 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)(a) Subject to Subsection (11)(b), an owner of land may appeal to the county board of equalization:]~~

~~[(i) a decision by a county assessor to withdraw land from assessment under this part; or]~~

~~[(ii) the imposition of a rollback tax under this section:]~~

~~[(b) An owner shall file an appeal under Subsection (11)(a) no later than 45 days after the day on which the county assessor mails the notice required by Subsection (5).]~~

Section 3. Section **59-2-508** is amended to read:

59-2-508. Application -- Signed statement -- Consent to creation of a lien -- Consent to audit and review -- Notice.

(1) If an owner of land eligible for assessment under this part wants the land to be assessed under this part, the owner shall submit an application to the county assessor of the county in which the land is located.

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

(ii) by the date otherwise required by this part for land that prior to 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) The application ~~[required by]~~ described in Subsection (2) constitutes consent by the owners of the land to the creation of a lien upon the land as provided in this part.

(4) (a) If the county determines that an application that was timely filed is incomplete, the county shall:

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

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

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

~~[(4)]~~ (5) (a) Once the application ~~[for assessment]~~ described in Subsection (1) has been approved, the county may:

(i) require, by written request of the county assessor, the owner to submit a new application or a signed statement~~[- (A) by written request of the county assessor, and (B)]~~ that verifies that the land qualifies for assessment under this part; or

(ii) except as provided in Subsection ~~[(4)]~~ (5)(b), require no additional signed statement or application for assessment under this part.

(b) ~~[Notwithstanding Subsection (4)(a), a]~~ A county shall require that an owner provide notice if land is withdrawn from this part:

(i) as provided in Section 59-2-506; or

(ii) for land that is subject to a conservation easement created in accordance with Section 59-2-506.5, as provided in Section 59-2-506.5.

(c) An owner shall submit an application or signed statement required under Subsection ~~[(4)]~~ (5)(a) ~~[shall be submitted]~~ by the date specified in the written request of the county assessor for the application or signed statement.

~~[(5)]~~ (6) A certification under Subsection (2)(f) is considered as if made under oath and

subject to the same penalties as provided by law for perjury.

~~[(6)]~~ (7) (a) All owners applying for participation under this part and all purchasers or lessees signing statements under Subsection ~~[(7)]~~ (8) are considered to have given their consent to 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 ~~[(6)]~~ (7)(a) is a condition to the acceptance of any application or signed statement.

~~[(7)]~~ (8) Any 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 59-2-503, may qualify the land for assessment under this part by submitting, with the application ~~[required under]~~ described in Subsection (2), a signed statement from that purchaser or lessee certifying those facts that would be necessary to meet the requirements of Section 59-2-503 for assessment under this part.

Section 4. Section 59-2-516 is enacted to read:

59-2-516. Appeal to the county board of equalization.

Notwithstanding Section 59-2-1004 or 63G-4-301, the owner of land may appeal the determination or denial of a county assessor to the county board of equalization within 45 days after the day on which:

(1) the county assessor makes a determination under this part; or

(2) the county assessor's failure to make a determination results in the owner's request being considered denied under this part.

Section 5. 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 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) 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 recording.

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

(i) ~~[be paid]~~ into the county treasury; and

(ii) ~~[be paid by the county treasurer]~~ 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) [A] 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 [shall be included on the notice required by Section 59-2-1317, along with] 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 [~~in accordance with Subsection (2)~~].

(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.

~~[(10)(a) Subject to Subsection (10)(b), an owner of land may appeal to the county board of equalization:]~~

~~[(i) a decision by a county assessor to withdraw land from assessment under this part; or]~~

~~[(ii) the imposition of a rollback tax under this section.]~~

~~[(b) An owner shall file an appeal under Subsection (10)(a) no later than 45 days after the day on which the county assessor mails the notice required by Subsection (5).]~~

Section 6. 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.

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

(4) (a) If the county determines that an application that was timely filed is incomplete, the county shall:

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

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

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

~~[(4)]~~ (5) (a) Except as provided in Subsections (1) and (2), a county assessor may not require an additional signed statement or application for assessment under this part.

(b) Notwithstanding Subsection ~~[(4)]~~ (5)(a), a county shall require that an owner provide notice if land is withdrawn from this part as provided in Section 59-2-1705.

~~[(5)]~~ (6) A certification under Subsection (2)(f) is considered as if made under oath and subject to the same penalties as provided by law for perjury.

~~[(6)]~~ (7) (a) An owner applying for participation under this part or a purchaser or lessee ~~[who]~~ that signs a statement under Subsection ~~[(7)]~~ (8) 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 ~~[(6)]~~ (7)(a) is a condition to the acceptance of an application or signed statement.

~~[(7)]~~ (8) 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 ~~[required~~

~~under~~] described in Subsection (2), 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.

Section 7. Section 59-2-1713 is enacted to read:

59-2-1713. Appeal to the county board of equalization.

Notwithstanding Section 59-2-1004 or 63G-4-301, the owner of land may appeal the determination or denial of a county assessor to the county board of equalization within 45 days after the day on which:

(1) the county assessor makes a determination under this part; or

(2) the county assessor's failure to make a determination results in the owner's request being considered denied under this part.