

PROPERTY TAX ADMINISTRATION AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keith Grover

House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill modifies the procedures for obtaining a residential property exemption on a primary residence.

Highlighted Provisions:

This bill:

- requires an owner of a residential property occupied by a tenant to submit a written declaration that the property is the primary residence of the tenant;
- provides the form of the written declaration and limits the information a county assessor may obtain from the owner or the tenant;
- recodifies a similar declaration requirement for residential property under construction in the procedures for obtaining a residential property exemption code; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-2-103, as last amended by Laws of Utah 2020, Chapters 38, 40

59-2-103.5, as last amended by Laws of Utah 2022, Chapter 239

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

Section 1. Section **59-2-103** is amended to read:

59-2-103 . Rate of assessment of property -- Residential property.

- (1) As used in this section:
- (a) (i) "Household" means the association of individuals who live in the same dwelling, sharing the dwelling's furnishings, facilities, accommodations, and expenses.
 - (ii) "Household" includes married individuals, who are not legally separated, who have established domiciles at separate locations within the state.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "domicile."
- (2) All tangible taxable property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.
- (3) Subject to Subsections (4) through [(7)] (6) and Section 59-2-103.5, for a calendar year, the fair market value of residential property located within the state is allowed a residential exemption equal to a 45% reduction in the value of the property.
- (4) Part-year residential property located within the state is allowed the residential exemption described in Subsection (3) if the part-year residential property is used as residential property for 183 or more consecutive calendar days during the calendar year for which the owner seeks to obtain the residential exemption.
- (5) No more than one acre of land per residential unit may qualify for the residential exemption described in Subsection (3).
- (6) (a) Except as provided in Subsections (6)(b)(ii) and (iii), a residential exemption described in Subsection (3) is limited to one primary residence per household.
- (b) An owner of multiple primary residences located within the state is allowed a residential exemption under Subsection (3) for:
- (i) subject to Subsection (6)(a), the primary residence of the owner;
 - (ii) each residential property that is the primary residence of a tenant; and
 - (iii) subject to Subsection [(7)] 59-2-103.5(4), each residential property described in Subsection 59-2-102(34)(b)(ii).
- ~~[(7) Before residential property described in Subsection 59-2-102(34)(b)(ii) is allowed a residential exemption described in Subsection (3), an owner of the residential property shall file with the county assessor a written declaration that:]~~
- ~~[(a) states under penalty of perjury that, to the best of each owner's knowledge, upon completion of construction or occupancy of the residential property, the residential property will be used for residential purposes as a primary residence;]~~

62 ~~[(b) is signed by each owner of the residential property; and]~~

63 ~~[(c) is on a form prescribed by the commission.]~~

64 Section 2. Section **59-2-103.5** is amended to read:

65 **59-2-103.5 . Procedures to obtain an exemption for residential property --**

66 **Procedure if property owner or property no longer qualifies to receive a residential**
67 **exemption.**

68 (1) Subject to ~~[Subsection (8)]~~ Subsections (4), (5), and (10), for residential property other
69 than part-year residential property, a county legislative body may adopt an ordinance
70 that requires an owner to file an application with the county board of equalization before
71 the county applies a residential exemption ~~[under Section 59-2-103 may be applied]~~
72 authorized under Section 59-2-103 to the value of the residential property if:

73 (a) the residential property was ineligible for the residential exemption during the
74 calendar year immediately preceding the calendar year for which the owner is
75 seeking to have the residential exemption applied to the value of the residential
76 property;

77 (b) an ownership interest in the residential property changes; or

78 (c) the county board of equalization determines that there is reason to believe that the
79 residential property no longer qualifies for the residential exemption.

80 (2) (a) The application described in Subsection (1):

81 (i) shall be on a form the commission ~~[prescribes]~~ provides by rule and makes
82 available to the counties;

83 (ii) shall be signed by the owner of the residential property; and

84 (iii) may not request the sales price of the residential property.

85 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
86 commission may make rules ~~[prescribing]~~ providing the contents of the form
87 described in Subsection (2)(a).

88 (c) For purposes of the application described in Subsection (1), a county may not request
89 information from an owner of a residential property beyond the information~~[provided]~~
90 in the form ~~[prescribed]~~ provided by the commission under this Subsection (2).

91 (3) (a) Regardless of whether a county legislative body adopts an ordinance described in
92 Subsection (1), before a county may apply a residential exemption ~~[may be applied]~~
93 to the value of part-year residential property, an owner of the property shall:

94 (i) file the application described in Subsection (2)(a) with the county board of
95 equalization; and

(ii) include as part of the application described in Subsection (2)(a) a statement that certifies:

(A) the date the part-year residential property became residential property;

(B) that the part-year residential property will be used as residential property for 183 or more consecutive calendar days during the calendar year for which the owner seeks to obtain the residential exemption; and

(C) that the owner, or a member of the owner's household, may not claim a residential exemption for any property for the calendar year for which the owner seeks to obtain the residential exemption, other than the part-year residential property, or as allowed under Section 59-2-103 with respect to the primary residence or household furnishings, furniture, and equipment of the owner's tenant.

(b) If an owner files an application under this Subsection (3) on or after May 1 of the calendar year for which the owner seeks to obtain the residential exemption, the county board of equalization may require the owner to pay an application fee not to exceed \$50.

(4) Before a county allows residential property described in Subsection 59-2-102(34)(b)(ii) a residential exemption authorized under Section 59-2-103, an owner of the residential property shall file with the county assessor a written declaration that:

(a) states under penalty of perjury that, to the best of each owner's knowledge, upon completion of construction or occupancy of the residential property, the residential property will be used for residential purposes as a primary residence;

(b) is signed by each owner of the residential property; and

(c) is on a form approved by the commission.

(5) (a) Before a county allows residential property described in Subsection 59-2-103 (6)(b) a residential exemption authorized under Section 59-2-103, an owner of the residential property shall file with the county assessor a written declaration that:

(i) states under penalty of perjury that, to the best of each owner's knowledge, the residential property will be used for residential purposes as a primary residence of a tenant;

(ii) is signed by each owner of the residential property; and

(iii) is on a form approved by the commission.

(b) (i) (A) In addition to the declaration, a county assessor may request from an owner a current lease agreement signed by the tenant.

- 130 (B) If the lease agreement is insufficient for a county assessor to make a
131 determination about eligibility for a residential exemption, a county assessor
132 may request a copy of the real estate insurance policy for the property.
- 133 (C) If the real estate insurance policy is insufficient for a county assessor to make
134 a determination about eligibility for a residential exemption, a county assessor
135 may request a copy of a filing from the most recent federal tax return showing
136 that the owner had profit or loss from the residential property as a rental.
- 137 (ii) A county assessor may not request information from an owner's tenant.
- 138 ~~[(4)]~~ (6) Except as provided in Subsection ~~[(5)]~~ (7), if a property owner no longer qualifies to
139 receive a residential exemption authorized under Section 59-2-103 for the property
140 owner's primary residence, the property owner shall:
- 141 (a) file a written statement with the county board of equalization of the county in which
142 the property is located:
- 143 (i) on a form provided by the county board of equalization; and
144 (ii) notifying the county board of equalization that the property owner no longer
145 qualifies to receive a residential exemption authorized under Section 59-2-103 for
146 the property owner's primary residence; and
- 147 (b) declare on the property owner's individual income tax return under Chapter 10,
148 Individual Income Tax Act, for the taxable year for which the property owner no
149 longer qualifies to receive a residential exemption authorized under Section 59-2-103
150 for the property owner's primary residence, that the property owner no longer
151 qualifies to receive a residential exemption authorized under Section 59-2-103 for the
152 property owner's primary residence.
- 153 ~~[(5)]~~ (7) A property owner is not required to file a written statement or make the declaration
154 described in Subsection ~~[(4)]~~ (6) if the property owner:
- 155 (a) changes primary residences;
- 156 (b) qualified to receive a residential exemption authorized under Section 59-2-103 for
157 the residence that was the property owner's former primary residence; and
- 158 (c) qualifies to receive a residential exemption authorized under Section 59-2-103 for the
159 residence that is the property owner's current primary residence.
- 160 ~~[(6)]~~ (8) Subsections (2) through ~~[(5)]~~ (7) do not apply to qualifying exempt primary
161 residential rental personal property.
- 162 ~~[(7)]~~ (9) (a) Subject to Subsection ~~[(8)]~~ (10), for the first calendar year in which a
163 property owner qualifies to receive a residential exemption under Section 59-2-103, a

county assessor may require the property owner to file a signed statement described in Section 59-2-306.

(b) Subject to Subsection ~~[(8)]~~ (10) and notwithstanding Section 59-2-306, for a calendar year after the calendar year described in Subsection ~~[(7)(a)]~~ (9)(a) in which a property owner qualifies for an exemption ~~[described in Subsection 59-2-1115(2)]~~ authorized under Section 59-2-1115 for qualifying exempt primary residential rental personal property, a signed statement described in Section 59-2-306 with respect to the qualifying exempt primary residential rental personal property may only require the property owner to certify, under penalty of perjury, that the property owner qualifies for the exemption ~~[under Subsection 59-2-1115(2)]~~ authorized under Section 59-2-1115.

~~[(8)]~~ (10) (a) After an ownership interest in residential property changes, the county assessor shall:

- (i) notify the owner of the residential property that the owner is required to submit a written declaration described in Subsection ~~[(8)(d)]~~ (10)(d) within 90 days after the day on which the county assessor mails the notice under this Subsection ~~[(8)(a)]~~ (10)(a); and
- (ii) provide the owner of the residential property with the form described in Subsection ~~[(8)(e)]~~ (10)(e) to make the written declaration described in Subsection ~~[(8)(d)]~~ (10)(d).

(b) A county assessor is not required to provide a notice to an owner of residential property under Subsection ~~[(8)(a)]~~ (10)(a) if the situs address of the residential property is the same as any one of the following:

- (i) the mailing address of the residential property owner or the tenant of the residential property;
- (ii) the address listed on the:
 - (A) residential property owner's driver license; or
 - (B) tenant of the residential property's driver license; or
- (iii) the address listed on the:
 - (A) residential property owner's voter registration; or
 - (B) tenant of the residential property's voter registration.

(c) A county assessor is not required to provide a notice to an owner of residential property under Subsection ~~[(8)(a)]~~ (10)(a) if:

- (i) the owner is using a post office box or rural route box located in the county where

- 198 the residential property is located; and
- 199 (ii) the residential property is located in a county of the fourth, fifth, or sixth class.
- 200 (d) An owner of residential property that receives a notice described in Subsection [(8)(a)]
- 201 (10)(a) shall submit a written declaration to the county assessor under penalty of
- 202 perjury certifying the information contained in the form [provided] described in
- 203 Subsection [(8)(e)] (10)(e).
- 204 (e) The written declaration required by Subsection [(8)(d)] (10)(d) shall be:
- 205 (i) signed by the owner of the residential property; and
- 206 (ii) in substantially the following form:
- 207

"Residential Property Declaration

208 This form must be submitted to the County Assessor's office where your new residential

209 property is located within 90 days of receipt. Failure to do so will result in the county assessor

210 taking action that could result in the withdrawal of the primary residential exemption from

211 your residential property.

212

Residential Property Owner Information

213 Name(s): _____

214 Home Phone: _____

215 Work Phone: _____

216 Mailing Address: _____

217

Residential Property Information

218 Physical Address: _____

Certification

220 1. Is this property used as a primary residential property or part-year residential property

221 for you or another person?

222 "Part-year residential property" means owned property that is not residential property on

223 January 1 of a calendar year but becomes residential property after January 1 of the calendar

224 year.

225 Yes No

226 2. Will this primary residential property or part-year residential property be occupied for

227 183 or more consecutive calendar days by the owner or another person?

228 A part-year residential property occupied for 183 or more consecutive calendar days in a

calendar year by the owner(s) or a tenant is eligible for the exemption.

Yes No

If a property owner or a property owner's spouse claims a residential exemption under Utah Code Ann. §59-2-103 for property in this state that is the primary residence of the property owner or the property owner's spouse, that claim of a residential exemption creates a rebuttable presumption that the property owner and the property owner's spouse have domicile in Utah for income tax purposes. The rebuttable presumption of domicile does not apply if the residential property is the primary residence of a tenant of the property owner or the property owner's spouse.

Signature

Under penalties of perjury, I declare to the best of my knowledge and belief, this declaration and accompanying pages are true, correct, and complete.

_____(Owner signature) _____Date (mm/dd/yyyy)

_____(Owner printed name)

(f) For purposes of a written declaration described in this Subsection ~~[(8)]~~ (10), a county may not request information from a property owner beyond the information described in the form provided in Subsection ~~[(8)(e)]~~ (10)(e).

(g) (i) If, after receiving a written declaration filed under Subsection ~~[(8)(d)]~~ (10)(d), the county determines that the property has been incorrectly qualified or disqualified to receive a residential exemption, the county shall:

(A) redetermine the property's qualification to receive a residential exemption; and

(B) notify the claimant of the redetermination and the county's reason for the redetermination.

(ii) The redetermination provided in Subsection ~~[(8)(g)(i)(A)]~~ (10)(g)(i)(A) is final unless:

(A) except as provided in Subsection ~~[(8)(g)(iii)]~~ (10)(g)(iii), the property owner appeals the redetermination to the board of equalization in accordance with Subsection 59-2-1004(2); or

(B) the county determines that the property is eligible to receive a primary residential exemption as part-year residential property.

(iii) The board of equalization may not accept an appeal that is filed after the later of:

(A) September 15 of the current calendar year; or

(B) the last day of the 45-day period beginning on the day on which the county auditor provides the notice under Section 59-2-919.1.

(h) (i) If a residential property owner fails to file a written declaration required by Subsection ~~[(8)(d)]~~ (10)(d), the county assessor shall mail to the owner of the residential property a notice that:

(A) the property owner failed to file a written declaration as required by Subsection ~~[(8)(d)]~~ (10)(d); and

(B) the property owner will no longer qualify to receive the residential exemption authorized under Section 59-2-103 for the property that is the subject of the written declaration if the property owner does not file the written declaration required by Subsection ~~[(8)(d)]~~ (10)(d) within 30 days after the day on which the county assessor mails the notice under this Subsection ~~[(8)(h)(i)]~~ (10)(h)(i).

(ii) If a property owner fails to file a written declaration required by Subsection ~~[(8)(d)]~~ (10)(d) after receiving the notice described in Subsection ~~[(8)(h)(i)]~~ (10)(h)(i), the property owner no longer qualifies to receive the residential exemption authorized under Section 59-2-103 in the calendar year for the property that is the subject of the written declaration unless:

(A) except as provided in Subsection ~~[(8)(h)(iii)]~~ (10)(h)(iii), the property owner appeals the redetermination to the board of equalization in accordance with Subsection 59-2-1004(2); or

(B) the county determines that the property is eligible to receive a primary residential exemption as part-year residential property.

(iii) The board of equalization may not accept an appeal that is filed after the later of:

(A) September 15 of the current calendar year; or

(B) the last day of the 45-day period beginning on the day on which the county auditor provides the notice under Section 59-2-919.1.

(iv) A property owner that is disqualified to receive the residential exemption under Subsection ~~[(8)(h)(ii)]~~ (10)(h)(ii) may file an application described in Subsection (1) to determine whether the owner is eligible to receive the residential exemption.

(i) The requirements of this Subsection ~~[(8)]~~ (10) do not apply to a county assessor in a county that has, for the five calendar years prior to 2019, had in place and enforced an ordinance described in Subsection (1).

Section 3. **Effective date.**

This bill takes effect on May 1, 2024.