

FALLOW LAND AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jason B. Kyle

Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill addresses the applicability of fallow land to agricultural and urban farming property tax assessment.

Highlighted Provisions:

This bill:

- defines terms;
- allows for fallow land to qualify for agricultural and urban farming assessment;
- allows landowners to provide written notice to the county assessor in each year that land is fallowed;
- allows a county assessor to require landowners to submit a land management plan if a landowner intends to fallow land for more than one year; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-2-503, as last amended by Laws of Utah 2023, Chapter 72

59-2-1703, as last amended by Laws of Utah 2023, Chapter 189

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

Section 1. Section **59-2-503** is amended to read:

59-2-503 . Qualifications for agricultural use assessment.

- (1) For general property tax purposes, land may be assessed on the basis of the value that the land has for agricultural use if the land:
- (a) is not less than five contiguous acres in area, except that land may be assessed on the basis of the value that the land has for agricultural use:
 - (i) if:
 - (A) the land is devoted to agricultural use in conjunction with other eligible acreage; and
 - (B) the land and the other eligible acreage described in Subsection (1)(a)(i)(A) have identical legal ownership; or
 - (ii) as provided under Subsections (4) and (5); and
 - (b) except as provided in Subsection (6) or (7):
 - (i) is actively devoted to agricultural use; and
 - (ii) has been actively devoted to agricultural use for at least two successive years immediately preceding the tax year for which the land is being assessed under this part.
- (2) In determining whether land is actively devoted to agricultural use, production per acre for a given county or area and a given type of land shall be determined by using the first applicable of the following:
- (a) production levels reported in the current publication of the Utah Agricultural Statistics;
 - (b) current crop budgets developed and published by Utah State University; and
 - (c) other acceptable standards of agricultural production designated by the commission by rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3) Land may be assessed on the basis of the land's agricultural value if the land:
- (a) is subject to the privilege tax imposed by Section 59-4-101;
 - (b) is owned by the state or any of the state's political subdivisions; and
 - (c) meets the requirements of Subsection (1).
- (4) Notwithstanding Subsection (1)(a), the commission or a county board of equalization may grant a waiver of the acreage limitation for land upon:
- (a) appeal by the owner; and
 - (b) submission of proof that 80% or more of the owner's, purchaser's, or lessee's income is derived from agricultural products produced on the property in question.
- (5) Notwithstanding Subsection (1)(a), the commission or a county board of equalization

shall grant a waiver of the acreage limitation for land upon:

(a) appeal by the owner; and

(b) submission of proof that:

(i) the failure to meet the acreage requirement arose solely as a result of an acquisition by a public utility or a governmental entity by:

(A) eminent domain; or

(B) the threat or imminence of an eminent domain proceeding; and

(ii) the land is actively devoted to agricultural use.

(6) (a) The commission or a county board of equalization may grant a waiver of the requirement that the land is actively devoted to agricultural use for the tax year for which the land is being assessed under this part upon:

(i) appeal by the owner; and

(ii) submission of proof that:

(A) the land was assessed on the basis of agricultural use for at least two years immediately preceding that tax year; and

(B) the failure to meet the agricultural production requirements for that tax year was due to no fault or act of the owner, purchaser, or lessee.

(b) As used in Subsection (6)(a), "fault" does not include:

(i) intentional planting of crops or trees which, because of the maturation period, do not give the owner, purchaser, or lessee a reasonable opportunity to satisfy the production levels required for land actively devoted to agricultural use; or

(ii) implementation of a bona fide range improvement program, crop rotation program, or other similar accepted cultural practices which do not give the owner, purchaser, or lessee a reasonable opportunity to satisfy the production levels required for land actively devoted to agricultural use.

(7) Land that otherwise qualifies for assessment under this part qualifies for assessment under this part in the first year the land resumes being actively devoted to agricultural use if:

(a) the land 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; and

(b) the land qualified for assessment under this part in the year immediately preceding the year the land became ineligible for assessment under this part only as a result of a split estate mineral rights owner exercising the right to extract a mineral.

(8) Land that otherwise qualifies under Subsection (1) to be assessed on the basis of the

value that the land has for agricultural use does not lose that qualification by becoming subject to a forest stewardship plan developed under Section 65A-8a-106 under which the land is subject to a temporary period of limited use or nonuse.

(9) (a) Notwithstanding Subsection (1) and except as provided in Subsection (9)(d), land in agricultural use that is intentionally allowed to lay fallow for one or more growing seasons qualifies for assessment under this part if the following is conducted:

(i) during periods of limited water supply;

(ii) as part of a prudent farm management practice, including crop rotation, rotational grazing, or soil water management; or

(iii) to facilitate voluntary participation in a water management or agricultural water optimization program.

(b) If the owner of land assessed under this part fallows the land during any period in a calendar year, the owner may, on or before December 31 of the year in which the land is fallowed, provide to the county assessor written notice that:

(i) identifies the land that was fallowed during any period of the year in which the notice is provided, including the acreage of the fallowed land;

(ii) demonstrates how the land qualifies under Subsection (9)(a); and

(iii) specifies whether the owner intends to fallow the land during any period in the following calendar year, and, if so, the intended duration of the following period.

(c) (i) If the written notice under Subsection (9)(b) indicates that the owner intends to fallow the land during any period in the following calendar year, the county assessor may, within 45 days of receiving the written notice, require the owner to submit to the county assessor a land management plan in a form prescribed by the county assessor that:

(A) identifies the owner's objectives in fallowing the land for the intended duration of the following period;

(B) provides adequate assurances to the county assessor that the fallowed land will become actively devoted to agricultural use upon the expiration of the intended fallowing period; and

(C) includes any other information required by the county assessor.

(ii) If the owner submits to the county assessor a land management plan for fallowed land that meets the requirements of Subsection (9)(c)(i), the county assessor may not require the owner to submit a new or additional land management plan for the same land within three years from the day on which the owner submitted the plan.

(d) Fallowed land is withdrawn from this part if:

(i) the county assessor determines that the land does not qualify under Subsection

(9)(a);

(ii) the owner fails to return the fallowed land to active agricultural use upon the

expiration of the intended fallowing period as specified in the written notice; or

(iii) the owner fails to comply with the requirements of Subsection (9)(c), if a land

management plan is required.

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

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

(1) (a) For general property tax purposes, land may be assessed on the basis of the value

that the land has for agricultural use if the land:

(i) is actively devoted to urban farming;

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

(iii) (A) has been actively devoted to urban farming for at least two successive

years immediately preceding the tax year for which the land is assessed under

this part; or

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

year.

(b) Land that is not actively devoted to urban farming may not be assessed as provided

in Subsection (1)(a), even if the land is part of a parcel that includes land actively

devoted to urban farming.

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

acre for a given county or area and a given type of land shall be determined by using

the first applicable of the following:

(i) production levels reported in the current publication of Utah Agricultural Statistics;

(ii) current crop budgets developed and published by Utah State University; or

(iii) the highest per acre value used for land assessed under the Farmland Assessment

Act for the county in which the property is located.

(b) A county assessor may not assess land actively devoted to urban farming on the basis

of the value that the land has for agricultural use under this part unless an owner

annually files documentation with the county assessor:

(i) on a form provided by the county assessor;

(ii) demonstrating to the satisfaction of the county assessor that the land meets the

production levels required under this part; and

(iii) except as provided in Subsection 59-2-1707(2)(c)(i), no later than January 30 for each tax year in which the owner applies for assessment under this part.

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

(a) on appeal by an owner; and

(b) if the owner submits documentation to the county assessor demonstrating to the satisfaction of the county assessor that:

(i) the failure to meet the acreage requirements of Subsection (1)(a)(ii) arose solely as a result of an acquisition by a governmental entity by:

(A) eminent domain; or

(B) the threat or imminence of an eminent domain proceeding;

(ii) the land is actively devoted to urban farming; and

(iii) no change occurs in the ownership of the land.

(4) (a) Notwithstanding Subsection (1) and except as provided in Subsection (4)(d), land for urban farming that is intentionally allowed to lay fallow for one or more growing seasons qualifies for assessment under this part if the following is conducted:

(i) during periods of limited water supply;

(ii) as part of a prudent farm management practice, including crop rotation, rotational grazing, or soil water management; or

(iii) to facilitate voluntary participation in a water management or agricultural water optimization program.

(b) If the owner of land assessed under this part follows the land during any period in a calendar year, the owner may, on or before December 31 of the year in which the land is fallowed, provide to the county assessor written notice that:

(i) identifies the land that was fallowed during any period of the calendar year in which the notice is provided, including the acreage of the fallowed land;

(ii) demonstrates how the fallowed land qualifies under Subsection (4)(a); and

(iii) specifies whether the owner intends to fallow the land during any period in the following calendar year, and, if so, the intended duration of the fallowing period.

(c) (i) If a written notice under Subsection (4)(b) indicates that the owner intends to fallow the land during any period in the following calendar year, the county assessor may, within 45 days of receiving the written notice, require the owner to submit to the county assessor a land management plan in a form prescribed by the county assessor that:

- 198 (A) identifies the owner's objectives in fallowing the land for the intended
199 duration of the fallowing period;
- 200 (B) provides adequate assurances to the county assessor that the fallowed land will
201 become actively devoted to urban farming upon the expiration of the intended
202 fallowing period; and
- 203 (C) includes any other information required by the county assessor.
- 204 (ii) If the owner submits to the county assessor a land management plan for fallowed
205 land that meets the requirements of Subsection (4)(c)(i), the county assessor may
206 not require the owner to submit a new or additional land management plan for the
207 same land within three years from the day on which the owner submitted the plan.
- 208 (d) Fallowed land is withdrawn from this part if:
- 209 (i) the county assessor determines that the land does not qualify under Subsection
210 (4)(a);
- 211 (ii) the owner fails to return the fallowed land to active urban farming upon the
212 expiration of the intended fallowing period as specified in the written notice; or
- 213 (iii) the owner fails to comply with the requirements of Subsection (4)(c), if a land
214 management plan is required.

215 Section 3. **Effective date.**

216 This bill takes effect on May 1, 2024.