

WILDFIRE MITIGATION AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joel K. Briscoe

Senate Sponsor: _____

LONG TITLE

General Description:

This bill provides a tax credit for wildfire mitigation efforts.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ enacts a nonrefundable income tax credit for wildfire mitigation measures in certain areas for a certain time period; and
- ▶ describes the qualifications to receive the income tax credit.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-10-1002.2, as last amended by Laws of Utah 2011, Chapter 302

ENACTS:

59-10-1033, Utah Code Annotated 1953

65A-8-106, Utah Code Annotated 1953

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



28 Section 1. Section 59-10-1002.2 is amended to read:

29 **59-10-1002.2. Apportionment of tax credits.**

30 (1) A nonresident individual or a part-year resident individual that claims a tax credit
31 in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1021, 59-10-1022,
32 59-10-1023, 59-10-1024, [or] 59-10-1028, or 59-10-1033 may only claim an apportioned
33 amount of the tax credit equal to:

34 (a) for a nonresident individual, the product of:

35 (i) the state income tax percentage for the nonresident individual; and

36 (ii) the amount of the tax credit that the nonresident individual would have been
37 allowed to claim but for the apportionment requirements of this section; or

38 (b) for a part-year resident individual, the product of:

39 (i) the state income tax percentage for the part-year resident individual; and

40 (ii) the amount of the tax credit that the part-year resident individual would have been
41 allowed to claim but for the apportionment requirements of this section.

42 (2) A nonresident estate or trust that claims a tax credit in accordance with Section
43 59-10-1017, 59-10-1020, 59-10-1022, 59-10-1024, [or] 59-10-1028, or 59-10-1033 may only
44 claim an apportioned amount of the tax credit equal to the product of:

45 (a) the state income tax percentage for the nonresident estate or trust; and

46 (b) the amount of the tax credit that the nonresident estate or trust would have been
47 allowed to claim but for the apportionment requirements of this section.

48 Section 2. Section 59-10-1033 is enacted to read:

49 **59-10-1033. Nonrefundable tax credit for wildfire mitigation measures.**

50 (1) As used in this section:

51 (a) "Costs" means the same as that term is defined in Section 65A-8-106.

52 (b) "Division" means the Division of Forestry, Fire, and State Lands created in Section
53 65A-1-4.

54 (c) (i) "Landowner" means a claimant, estate, or trust who is an owner of record of
55 private land located within the state, including an easement, right-of-way, or estate, who claims
56 a tax credit under this section.

57 (ii) "Landowner" does not include a pass-through entity as defined in Section
58 59-10-1402, except for an estate or trust.

59 (d) "Wildfire mitigation measures" means the same as that term is defined in Section
 60 65A-8-106.

61 (2) Except as provided in Section 59-10-1002.2, for a taxable year beginning on or
 62 after January 1, 2016, but beginning on or before December 31, 2018, a landowner may claim a
 63 nonrefundable income tax credit as provided in this section:

64 (a) in an amount equal to 50% of the landowner's costs incurred in performing wildfire
 65 mitigation measures during that taxable year on the landowner's property as documented by a
 66 tax credit certificate issued under Section 65A-8-106; and

67 (b) if the wildfire mitigation measures are performed in a qualified wildland fire
 68 mitigation area as defined in Section 65A-8-106.

69 (3) A tax credit under this section may not exceed \$2,500 per return.

70 ~~Ĥ→ [(4) In the case of real property owned as tenants in common, a tax credit under this~~
 71 ~~section may only be claimed by one of the owners of the property.~~

72 ~~—(5) [(4) ←Ĥ A tax credit under this section may not be carried forward or carried back.~~

73 ~~Ĥ→ [(6) (5) ←Ĥ (a) On or before October 1, 2017, the Revenue and Taxation~~
 73a Interim Committee

74 shall study the tax credit allowed by this section and make recommendations to the Legislative
 75 Management Committee concerning whether the tax credit should be continued, modified, or
 76 repealed.

77 (b) For purposes of the study required by this Subsection (6), the division shall provide
 78 the following information to the Revenue and Taxation Interim Committee:

79 (i) the amount of tax credit that the division grants for each taxable year;

80 (ii) the number of landowners to whom the division issues a tax credit certificate each
 81 taxable year; and

82 (iii) any other information that the Revenue and Taxation Interim Committee requests.

83 (c) The Revenue and Taxation Interim Committee shall ensure that its
 84 recommendations under Subsection (6)(a) include an evaluation of:

85 (i) the cost of the tax credit to the state;

86 (ii) the purpose and effectiveness of the tax credit; and

87 (iii) the extent to which the state benefits from the tax credit.

88 Section 3. Section **65A-8-106** is enacted to read:

89 **65A-8-106. Mitigation of wildland fire risk by private landowners.**

90 (1) As used in this section:

91 (a) (i) "Costs" means expenses incurred and paid by a landowner for performing
 92 wildfire mitigation measures as documented by the division under this section.

93 (ii) "Costs" does not include:

94 (A) inspection or certification fees, in-kind contributions, donations, incentives, or cost
 95 sharing expenses associated with performing wildfire mitigation measures; or

96 (B) expenses paid by a landowner from a grant awarded to the landowner for
 97 performing wildfire mitigation measures.

98 (b) "Landowner" means the same as that term is defined in Section [59-10-1033](#).

99 (c) "Qualified wildfire mitigation area" means an area or community designated by the
 100 division as being prepared to address the risk of wildland fire based on nationally recognized
 101 wildfire readiness standards.

102 (d) "Tax credit certificate" means a certificate issued by the division that includes:

103 (i) the name of the landowner;

104 (ii) the landowner's taxpayer identification number; and

105 (iii) the costs the landowner incurred and paid.

106 (e) "Wildfire mitigation measures" means efforts undertaken to reduce the risk of
 107 wildland fire that meet or exceed standards established by rule under this section by the
 108 division, including:

109 (i) the creation of a defensible space around structures;

110 (ii) the establishment of fuel breaks; and

111 (iii) thinning of woody vegetation for the primary purpose of reducing risk to structures
 112 from fire.

113 (2) ~~Ĥ~~→ (a) ←Ĥ If a landowner performs wildfire mitigation measures on property
 113a within a qualified
 114 wildfire mitigation area in compliance with this section, the landowner may apply to the
 115 division for a wildfire mitigation tax credit certificate.

115a ~~Ĥ~~→ (b) **Regardless of any shared or joint ownership of the property described in this**
 115b **Subsection (2), the division may only accept an application for a wildfire mitigation tax credit**
 115c **certificate from one landowner of that property.** ←Ĥ

116 (3) The division shall:

117 (a) establish an application for a wildfire mitigation tax credit certificate that requires
 118 an applicant to describe:

119 (i) the wildland fire mitigation measures taken; and

120 (ii) the costs incurred and paid by the applicant for performing wildfire mitigation

121 measures;
122 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
123 make rules establishing:
124 (i) criteria and a process for designating a qualified wildfire mitigation area;
125 (ii) standards for wildfire mitigation measures; and
126 (iii) criteria to issue a wildfire mitigation tax credit certificate; and
127 (c) provide a tax credit certificate to a landowner who is qualified under this section.
128 (4) The division shall issue a wildfire mitigation tax credit certificate within 90 days to
129 a landowner who is qualified under this section after the date on which the division receives
130 the application.
131 **Section 4. Effective date.**
132 This bill takes effect for a taxable year beginning on or after January 1, 2016.

Legislative Review Note
as of 1-27-15 6:11 PM

Office of Legislative Research and General Counsel