

1 GOVERNMENT LEASED PROPERTY TAX EXEMPTION

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: Steve Eliason

3 LONG TITLE

4 General Description:

5 This bill amends the property tax exemptions in the Property Tax Act.

6 Highlighted Provisions:

7 This bill:

8 ▶ defines terms to provide the circumstances under which property leased to a government
9 entity qualifies for a property tax exemption; and

10 ▶ makes technical and conforming changes.

11 Money Appropriated in this Bill:

12 None

13 Other Special Clauses:

14 This bill provides retrospective operation.

15 Utah Code Sections Affected:

16 AMENDS:

17 59-2-1101, as last amended by Laws of Utah 2023, Chapters 16, 147 and 471

18 59-2-1102, as last amended by Laws of Utah 2023, Chapter 471

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

21 Section 1. Section 59-2-1101 is amended to read:

22 59-2-1101 . Definitions -- Exemption of certain property -- Proportional
23 payments for certain property -- Exception -- County legislative body authority to adopt
24 rules or ordinances.

25 (1) As used in this section:

26 (a) "Charitable purposes" means:

27 (i) for property used as a nonprofit hospital or a nursing home, the standards outlined
28 in Howell v. County Board of Cache County ex rel. IHC Hospitals, Inc., 881 P.2d

- 29 880 (Utah 1994); and
- 30 (ii) for property other than property described in Subsection (1)(a)(i), providing a gift
- 31 to the community.
- 32 (b) "Compliance period" means a period equal to 15 taxable years beginning with the
- 33 first taxable year for which the taxpayer claims a tax credit under Section 42, Internal
- 34 Revenue Code, or Section 59-7-607 or 59-10-1010.
- 35 (c) (i) "Educational purposes" means purposes carried on by an educational
- 36 organization that normally:
- 37 (A) maintains a regular faculty and curriculum; and
- 38 (B) has a regularly enrolled body of pupils and students.
- 39 (ii) "Educational purposes" includes:
- 40 (A) the physical or mental teaching, training, or conditioning of competitive
- 41 athletes by a national governing body of sport recognized by the United States
- 42 Olympic Committee that qualifies as being tax exempt under Section
- 43 501(c)(3), Internal Revenue Code; and
- 44 (B) an activity in support of or incidental to the teaching, training, or conditioning
- 45 described in this Subsection (1)(c)(ii).
- 46 (d) "Exclusive use exemption" means a property tax exemption under Subsection
- 47 (3)(a)(iv), for property owned by a nonprofit entity used exclusively for one or more
- 48 of the following purposes:
- 49 (i) religious purposes;
- 50 (ii) charitable purposes; or
- 51 (iii) educational purposes.
- 52 (e) (i) "Farm machinery and equipment" means tractors, milking equipment and
- 53 storage and cooling facilities, feed handling equipment, irrigation equipment,
- 54 harvesters, choppers, grain drills and planters, tillage tools, scales, combines,
- 55 spreaders, sprayers, haying equipment, including balers and cubers, and any other
- 56 machinery or equipment used primarily for agricultural purposes.
- 57 (ii) "Farm machinery and equipment" does not include vehicles required to be
- 58 registered with the Motor Vehicle Division or vehicles or other equipment used
- 59 for business purposes other than farming.
- 60 (f) "Gift to the community" means:
- 61 (i) the lessening of a government burden; or
- 62 (ii) (A) the provision of a significant service to others without immediate

- 63 expectation of material reward;
- 64 (B) the use of the property is supported to a material degree by donations and gifts
65 including volunteer service;
- 66 (C) the recipients of the charitable activities provided on the property are not
67 required to pay for the assistance received, in whole or in part, except that if in
68 part, to a material degree;
- 69 (D) the beneficiaries of the charitable activities provided on the property are
70 unrestricted or, if restricted, the restriction bears a reasonable relationship to
71 the charitable objectives of the nonprofit entity that owns the property; and
- 72 (E) any commercial activities provided on the property are subordinate or
73 incidental to charitable activities provided on the property.
- 74 (g) "Government exemption" means a property tax exemption provided under
75 Subsection (3)(a)(i), (ii), or (iii).
- 76 (h) (i) "Nonprofit entity" means an entity:
- 77 (A) that is organized on a nonprofit basis, that dedicates the entity's property to the
78 entity's nonprofit purpose, and that makes no dividend or other form of
79 financial benefit available to a private interest;
- 80 (B) for which, upon dissolution, the entity's assets are distributable only for
81 exempt purposes under state law or to the government for a public purpose; and
- 82 (C) for which none of the net earnings or donations made to the entity inure to the
83 benefit of private shareholders or other individuals, as the private inurement
84 standard has been interpreted under Section 501(c)(3), Internal Revenue Code.
- 85 (ii) "Nonprofit entity" includes an entity:
- 86 (A) if the entity is treated as a disregarded entity for federal income tax purposes
87 and wholly owned by, and controlled under the direction of, a nonprofit entity;
88 and
- 89 (B) for which none of the net earnings and profits of the entity inure to the benefit
90 of any person other than a nonprofit entity.
- 91 (iii) "Nonprofit entity" includes an entity that is not an entity described in Subsection
92 (1)(h)(i) if the entity jointly owns a property that:
- 93 (A) is used for the purpose of providing permanent supportive housing;
- 94 (B) has an owner that is an entity described in Subsection (1)(h)(i) or that is a
95 housing authority that operates the permanent supportive housing;
- 96 (C) has an owner that receives public funding from a federal, state, or local

- 97 government entity to provide support services and rental subsidies to the
 98 permanent supportive housing;
- 99 (D) is intended to be transferred at or before the end of the compliance period to
 100 an entity described in Subsection (1)(h)(i) or a housing authority that will
 101 continue to operate the property as permanent supportive housing; and
- 102 (E) has been certified by the Utah Housing Corporation as meeting the
 103 requirements described in Subsections (1)(h)(iii)(A) through (D).
- 104 (i) "Permanent supportive housing" means a housing facility that:
- 105 (i) provides supportive services;
- 106 (ii) makes a 15-year commitment to provide rent subsidies to tenants of the housing
 107 facility when the housing facility is placed in service;
- 108 (iii) receives an allocation of federal low-income housing tax credits in accordance
 109 with 26 U.S.C. Sec. 42; and
- 110 (iv) leases each unit to a tenant:
- 111 (A) who, immediately before leasing the housing, was homeless as defined in 24
 112 C.F.R. 583.5; and
- 113 (B) whose rent is capped at no more than 30% of the tenant's household income.
- 114 (j) (i) "Property of" means property that an entity listed in Subsection (3)(a)(ii) or (iii)
 115 has a legal right to possess.
- 116 (ii) "Property of" includes a lease of real property if:
- 117 (A) the property is wholly leased to a state or political subdivision entity listed in
 118 Subsection (3)(a)(ii) or (iii) under a triple net lease; and
- 119 (B) the lease is in effect for the entire calendar year.
- 120 [(f)] (k) "Supportive service" means a service that is an eligible cost under 24 C.F.R.
 121 578.53.
- 122 (l) "Triple net lease" means a lease agreement under which the lessee is responsible for
 123 the real estate taxes, building insurance, and maintenance of the property separate
 124 from and in addition to the rental price.
- 125 (2) (a) Except as provided in Subsection (2)(b)[-], an exemption under this part may be
 126 allowed only if the claimant is the owner of the property as of January 1 of the year
 127 the exemption is claimed.
- 128 (b) [~~Notwithstanding Subsection (2)(a), a~~] A claimant shall collect and pay a proportional
 129 tax based upon the length of time that the property was not owned by the claimant if:
- 130 (i) the claimant is a federal, state, or political subdivision entity described in

- 131 Subsection (3)(a)(i), (ii), or (iii); or
132 (ii) pursuant to Subsection (3)(a)(iv):
133 (A) the claimant is a nonprofit entity; and
134 (B) the property is used exclusively for religious, charitable, or educational
135 purposes.
- 136 (3) (a) The following property is exempt from taxation:
137 (i) property exempt under the laws of the United States;
138 (ii) property of:
139 (A) the state;
140 (B) school districts; and
141 (C) public libraries;
142 (iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property
143 of:
144 (A) counties;
145 (B) cities;
146 (C) towns;
147 (D) special districts;
148 (E) special service districts; and
149 (F) all other political subdivisions of the state;
150 (iv) except as provided in Subsection (6) or (7), property owned by a nonprofit entity
151 used exclusively for one or more of the following purposes:
152 (A) religious purposes;
153 (B) charitable purposes; or
154 (C) educational purposes;
155 (v) places of burial not held or used for private or corporate benefit;
156 (vi) farm machinery and equipment;
157 (vii) a high tunnel, as defined in Section 10-9a-525;
158 (viii) intangible property; and
159 (ix) the ownership interest of an out-of-state public agency, as defined in Section
160 11-13-103:
161 (A) if that ownership interest is in property providing additional project capacity,
162 as defined in Section 11-13-103; and
163 (B) on which a fee in lieu of ad valorem property tax is payable under Section
164 11-13-302.

- 165 (b) For purposes of a property tax exemption for property of school districts under
166 Subsection (3)(a)(ii)(B), a charter school under Title 53G, Chapter 5, Charter
167 Schools, is considered to be a school district.
- 168 (4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a
169 government exemption ceases to qualify for the exemption because of a change in the
170 ownership of the property:
- 171 (a) the new owner of the property shall pay a proportional tax based upon the period of
172 time:
- 173 (i) beginning on the day that the new owner acquired the property; and
174 (ii) ending on the last day of the calendar year during which the new owner acquired
175 the property; and
- 176 (b) the new owner of the property and the person from whom the new owner acquires
177 the property shall notify the county assessor, in writing, of the change in ownership
178 of the property within 30 days from the day that the new owner acquires the property.
- 179 (5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):
- 180 (a) is subject to any exclusive use exemption or government exemption that the property
181 is entitled to under the new ownership of the property; and
182 (b) applies only to property that is acquired after December 31, 2005.
- 183 (6) (a) A property may not receive an exemption under Subsection (3)(a)(iv) if:
- 184 (i) the nonprofit entity that owns the property participates in or intervenes in any
185 political campaign on behalf of or in opposition to any candidate for public office,
186 including the publishing or distribution of statements; or
187 (ii) a substantial part of the activities of the nonprofit entity that owns the property
188 consists of carrying on propaganda or otherwise attempting to influence
189 legislation, except as provided under Subsection 501(h), Internal Revenue Code.
- 190 (b) Whether a nonprofit entity is engaged in an activity described in Subsection (6)(a)
191 shall be determined using the standards described in Section 501, Internal Revenue
192 Code.
- 193 (7) A property may not receive an exemption under Subsection (3)(a)(iv) if:
- 194 (a) the property is used for a purpose that is not religious, charitable, or educational; and
195 (b) the use for a purpose that is not religious, charitable, or educational is more than de
196 minimis.
- 197 (8) A county legislative body may adopt rules or ordinances to:
- 198 (a) effectuate an exemption under this part; and

199 (b) designate one or more persons to perform the functions given to the county under
200 this part.

201 (9) If a person is dissatisfied with an exemption decision made under designated
202 decision-making authority as described in Subsection (8)(b), that person may appeal the
203 decision to the commission under Section 59-2-1006.

204 Section 2. Section **59-2-1102** is amended to read:

205 **59-2-1102 . Determination of exemptions by board of equalization -- Appeal --**
206 **Application for exemption -- Annual statement -- Exceptions.**

207 (1) (a) For property assessed under Part 3, County Assessment, the county board of
208 equalization may, after giving notice in a manner prescribed by rule, determine
209 whether certain property within the county is exempt from taxation.

210 (b) The decision of the county board of equalization described in Subsection (1)(a) shall:

211 (i) be in writing; and

212 (ii) include:

213 (A) a statement of facts; and

214 (B) the statutory basis for its decision.

215 (c) Except as provided in Subsection (10)(a), a copy of the decision described in
216 Subsection (1)(a) shall be sent on or before May 15 to the person applying for the
217 exemption.

218 (2) Except as provided in Subsection (7) and subject to Subsection (8), [~~a reduction in the~~
219 ~~value of property may not be made under this part,~~] a county board of equalization may
220 not grant an exemption under this part unless the person affected or the person's agent:

221 (a) submits a written application to the county board of equalization; and

222 (b) verifies the application by signed statement.

223 (3) (a) The county board of equalization may require a person making an application for
224 exemption [~~or reduction~~] to appear before the county board of equalization and be
225 examined under oath.

226 (b) If the county board of equalization requires a person making an application for
227 exemption [~~or reduction~~] to appear before the county board of equalization, [~~a~~
228 ~~reduction may not be made or exemption granted unless the person~~] the county board
229 of equalization may not grant an exemption unless the person affected or the person's
230 agent appears and answers all questions pertinent to the inquiry.

231 (4) For the hearing on the application, the county board of equalization may subpoena any
232 witnesses, and hear and take any evidence in relation to the pending application.

- 233 (5) Except as provided in Subsection (10)(b), the county board of equalization shall hold
 234 hearings and render a written decision to determine any exemption on or before May 1
 235 in each year.
- 236 (6) Any ~~[property owner]~~ person that made an exemption application and is dissatisfied with
 237 the decision of the county board of equalization regarding any ~~[reduction or]~~ exemption
 238 may appeal to the commission under Section 59-2-1006.
- 239 (7) (a) ~~[Notwithstanding Subsection (2), a]~~ A county board of equalization may not
 240 require an owner of property to file an application in accordance with this section [in
 241 order] to claim an exemption for the property under the following:
 242 ~~[(a)]~~ (i) ~~[Subsections]~~ Subsection 59-2-1101(3)(a)(i) [through (iii)];
 243 ~~[(b)]~~ (ii) Subsection 59-2-1101(3)(a)(vi) or (viii);
 244 ~~[(c)]~~ (iii) Section 59-2-1110;
 245 ~~[(d)]~~ (iv) Section 59-2-1111;
 246 ~~[(e)]~~ (v) Section 59-2-1112;
 247 ~~[(f)]~~ (vi) Section 59-2-1113; or
 248 ~~[(g)]~~ (vii) Section 59-2-1114.
- 249 (b) A county board of equalization may not require an owner of property to file an
 250 application in accordance with this section to claim an exemption for the property
 251 described in Subsection 59-2-1101(3)(a)(ii) or (iii) unless the property is property
 252 described in Subsection 59-2-1101(1)(j)(ii).
- 253 (8) (a) Except as provided in Subsection (8)(b), for property described in Subsection
 254 59-2-1101(3)(a)(iv) or (v), a county board of equalization shall, consistent with
 255 Subsection (9), require an owner of that property to file an application in accordance
 256 with this section ~~[in order]~~ to claim an exemption for that property.
- 257 (b) ~~[Notwithstanding Subsection (8)(a), a]~~ A county board of equalization may not
 258 require an owner of property described in Subsection 59-2-1101(3)(a)(iv) or (v) to
 259 file an application under Subsection (8)(a) if:
 260 (i) the owner filed an application under Subsection (8)(a);
 261 (ii) the county board of equalization determines that the owner may claim an
 262 exemption for that property; and
 263 (iii) the exemption described in Subsection (8)(b)(ii) is in effect.
- 264 (c) (i) For the time period that an owner is granted an exemption in accordance with
 265 this section for property described in Subsection 59-2-1101(3)(a)(iv) or (v), a
 266 county board of equalization shall require the owner to file an annual statement on

- 267 or before March 1 on a form prescribed by the commission establishing that the
268 property continues to be eligible for the exemption.
- 269 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
270 the commission shall make rules providing:
- 271 (A) the form for the annual statement required by Subsection (8)(c)(i);
272 (B) the contents of the form for the annual statement required by Subsection
273 (8)(c)(i); and
274 (C) procedures and requirements for making the annual statement required by
275 Subsection (8)(c)(i).
- 276 (iii) The commission shall make the form described in Subsection (8)(c)(ii)(A)
277 available to counties.
- 278 (d) On or before April 1, a county board of equalization shall notify each property owner [
279 ~~who~~] that fails to timely file an annual statement in accordance with Subsection (8)(c)
280 of the county board of equalization's intent to revoke the exemption.
- 281 (e) An owner of exempt property described in Subsection 59-2-1101(3)(a)(iv) may file
282 the annual statement described in Subsection (8)(c) after March 1 if the property
283 owner:
- 284 (i) files the annual statement on or before March 31; and
285 (ii) includes a statement of facts establishing that the property owner was unable to
286 file the annual statement on or before March 1 due to one of the following
287 conditions and no other responsible party was capable of filing the annual
288 statement:
- 289 (A) a medical emergency of the property owner, an immediate family member of
290 the property owner, or the property owner's agent;
291 (B) the death of the property owner, an immediate family member of the property
292 owner, or the property owner's agent; or
293 (C) other extraordinary and unanticipated circumstances.
- 294 (9) (a) For purposes of this Subsection (9), "exclusive use exemption" means the same as
295 that term is defined in Section 59-2-1101.
- 296 (b) For purposes of Subsection (1)(a), when a person acquires property on or after
297 January 1 that qualifies for an exclusive use exemption, that person may apply for the
298 exclusive use exemption on or before the later of:
- 299 (i) the day set by rule as the deadline for filing a property tax exemption application;
300 or

- 301 (ii) 120 days after the day on which the property is acquired.
- 302 (10) (a) Notwithstanding Subsection (1)(c), if a person files an application for an
- 303 exemption [~~is filed~~] under Subsection (9), a county board of equalization shall send a
- 304 copy of the decision described in Subsection (1)(c) to the person applying for the
- 305 exemption on or before the later of:
 - 306 (i) May 15; or
 - 307 (ii) 45 days after the day on which the application for the exemption is filed.
- 308 (b) Notwithstanding Subsection (5), if an application for an exemption is filed under
- 309 Subsection (9), a county board of equalization shall hold the hearing and render the
- 310 decision described in Subsection (5) on or before the later of:
 - 311 (i) May 1; or
 - 312 (ii) 30 days after the day on which the application for the exemption is filed.

313 Section 3. **Effective date.**

314 This bill takes effect on May 1, 2024.

315 Section 4. **Retrospective operation.**

316 This bill has retrospective operation to January 1, 2024.