

LICENSING OF PROPERTY APPRAISERS

2013 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill makes changes related to appraiser licensing requirements and property tax appeals.

Highlighted Provisions:

This bill:

- ▶ allows certain licensed persons to assist a taxpayer in property tax appeals;
- ▶ expands an appraiser licensing exception related to accountants;
- ▶ exempts certain persons providing assistance in a property tax appeal from appraiser licensing provisions;
- ▶ addresses contingent fees; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 61-2g-301**, as last amended by Laws of Utah 2012, Chapters 166 and 384
- 61-2g-406**, as renumbered and amended by Laws of Utah 2011, Chapter 289
- 61-2g-407**, as renumbered and amended by Laws of Utah 2011, Chapter 289

ENACTS:

59-2-1017, Utah Code Annotated 1953

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

Section 1. Section **59-2-1017** is enacted to read:

59-2-1017. Property tax appeal assistance.

(1) As used in this section, "eligible professional" means a person who holds a current

33 professional license in the state, or in a state with which the state has licensing reciprocity, as:

34 (a) an appraiser;

35 (b) an attorney;

36 (c) a certified public accountant; or

37 (d) a real estate broker or sales agent.

38 (2) An eligible professional may represent a person in or provide information,
39 including an opinion of value or a report containing value conclusions, to a person for a
40 property tax appeal made in accordance with this part to a county board of equalization or to
41 the commission.

42 (3) An eligible professional who represents or provides information to a person in
43 accordance with Subsection (2) may not refer to an opinion of value or a report containing
44 value conclusions as an appraisal unless it is made by a licensed appraiser in accordance with
45 Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

46 (4) (a) A licensed appraiser who represents or provides information to a person in
47 accordance with Subsection (2) is subject to Sections 61-2g-304, 61-2g-403, 61-2g-406, and
48 62-2g-407.

49 (b) An eligible professional other than a licensed appraiser who represents or provides
50 information to a person in accordance with Subsection (2) and who charges a contingent fee is
51 subject to Section 61-2g-406.

52 Section 2. Section **61-2g-301** is amended to read:

53 **61-2g-301. License or certification required.**

54 (1) Except as provided in Subsection (2) or Section 59-2-1017, it is unlawful for a
55 person to prepare, for valuable consideration, an appraisal, an appraisal report, a certified
56 appraisal report, or perform a consultation service relating to real estate or real property in this
57 state without first being licensed or certified in accordance with this chapter.

58 (2) This section does not apply to:

59 (a) a principal broker, associate broker, or sales agent as defined by Section 61-2f-102
60 licensed by this state who, in the ordinary course of the broker's or sales agent's business, gives
61 an opinion:

62 (i) regarding the value of real estate;

63 (ii) to a potential seller or third-party recommending a listing price of real estate; or

64 (iii) to a potential buyer or third-party recommending a purchase price of real estate;

65 (b) an employee of a company who states an opinion of value or prepares a report
66 containing value conclusions relating to real estate or real property solely for the company's
67 use;

68 (c) an official or employee of a government agency while acting solely within the scope
69 of the official's or employee's duties, unless otherwise required by Utah law;

70 (d) an auditor [~~or accountant~~] who states an opinion of value or prepares a report
71 containing value conclusions relating to real estate or real property while performing an audit;

72 (e) an individual, except an individual who is required to be licensed or certified under
73 this chapter, who states an opinion about the value of property in which the person has an
74 ownership interest;

75 (f) an individual who states an opinion of value if no consideration is paid or agreed to
76 be paid for the opinion and no other party is reasonably expected to rely on the individual's
77 appraisal expertise;

78 (g) an individual, such as a researcher or a secretary, who does not render significant
79 professional assistance, as defined by the board, in arriving at a real estate appraisal analysis,
80 opinion, or conclusion; [~~or~~]

81 (h) an attorney authorized to practice law in any state who, in the course of the
82 attorney's practice or tax appeal services, uses an appraisal report governed by this chapter or
83 who states an opinion of the value of real estate[-]; or

84 (i) an accountant who states an opinion of value or prepares a report containing value
85 conclusions relating to real estate or real property in the course of the accountant's practice.

86 (3) An opinion of value or report containing value conclusions exempt under
87 Subsection (2) may not be referred to as an appraisal.

88 (4) Except as provided in Subsection (2), to prepare or cause to be prepared in this state
89 an appraisal, an appraisal report, or a certified appraisal report an individual shall:

90 (a) apply in writing for licensure or certification as provided in this chapter in the form
91 as the division may prescribe; and

92 (b) become licensed or certified under this chapter.

93 Section 3. Section **61-2g-406** is amended to read:

94 **61-2g-406. Contingent fees.**

95 (1) A person licensed or certified under this chapter who enters into an agreement to
96 perform an appraisal may not accept a contingent fee.

97 (2) A person who provides an opinion of value or a report containing value conclusions
98 related to a property tax appeal in accordance with Section 59-2-1017 or a person who is
99 licensed or certified under this chapter who enters into an agreement to provide consultation
100 services may be paid a fixed fee or a contingent fee.

101 (3) (a) If a person who provides an opinion of value or a report containing value
102 conclusions related to a property tax appeal in accordance with Section 59-2-1017 or a person
103 who is licensed or certified under this chapter enters into an agreement to perform consultation
104 services for a contingent fee, this fact shall be clearly stated in each oral statement.

105 (b) In addition to the requirements of Subsection (3)(a), if a person who provides an
106 opinion of value or a report containing value conclusions related to a property tax appeal in
107 accordance with Section 59-2-1017 or a person who is licensed or certified under this chapter
108 prepares a written consultation report or summary, letter of transmittal, or certification
109 statement for a contingent fee, the person shall clearly state in the report, summary, letter of
110 transmittal, or certification statement that the report is prepared under a contingent fee
111 arrangement.

112 Section 4. Section **61-2g-407** is amended to read:

113 **61-2g-407. Consultation reports -- Restrictions on use of terms.**

114 A person who prepares a written or oral consultation report or assists a person in a
115 property tax appeal in accordance with Section 59-2-1017 may not refer to the consultation
116 report or information provided to assist in a property tax appeal as an appraisal, an appraisal
117 report, or in any manner that may be interpreted as referring to an appraisal or an appraisal
118 report.