

PROPERTY TAX AND APPRAISER AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ allows a person to represent or assist another person in a property tax appeal under certain circumstances;
 - ▶ expands a property appraiser licensing exception related to accountants;
 - ▶ exempts a person representing another person or providing assistance in a property tax appeal from appraiser licensing provisions;
 - ▶ addresses contingent fees;
 - ▶ addresses the characterization of certain information related to property tax appeal;
- 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:

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

34 **59-2-1017. Property tax appeal assistance.**

35 (1) With permission of the person being represented or assisted, a person may represent
36 another person in or provide information, including an opinion of value or a report containing
37 value conclusions, to another person for a property tax appeal made in accordance with this
38 part to a county board of equalization or to the commission.

39 (2) A person who represents or provides information to another person in accordance
40 with Subsection (1) may not refer to an opinion of value or a report containing value
41 conclusions as an appraisal unless it is made by a person licensed in accordance with Title 61,
42 Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

43 (3) (a) A person licensed in accordance with Title 61, Chapter 2g, Real Estate
44 Appraiser Licensing and Certification Act, who represents or provides information to a person
45 in accordance with Subsection (1) is subject to Sections 61-2g-304, 61-2g-403, 61-2g-406, and
46 62-2g-407.

47 (b) A person other than a person licensed in accordance with Title 61, Chapter 2g, Real
48 Estate Appraiser Licensing and Certification Act, who represents or provides information to
49 another person in accordance with Subsection (1) and who charges a contingent fee is subject
50 to Section 61-2g-406.

51 (4) A county board of equalization or the commission may evaluate the reliability or
52 accuracy of any information submitted in accordance with this section.

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

54 **61-2g-301. License or certification required.**

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

59 (2) This section does not apply to:

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

63 (i) regarding the value of real estate;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

95 **61-2g-406. Contingent fees.**

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

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

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

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

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

114 **61-2g-407. Consultation reports -- Restrictions on use of terms.**

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