

**Senator Howard A. Stephenson** proposes the following substitute bill:

**PROPERTY TAX AND APPRAISER AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gage Froerer**

Senate Sponsor: Howard A. Stephenson

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ establishes requirements related to county property tax appeal hearing officers;
- ▶ addresses the consideration and weighing of evidence in a property tax appeal;
- ▶ defines terms;
- ▶ allows a person to present evidence or provide property tax information on behalf of another person in a property tax appeal under certain circumstances;
- ▶ addresses the duties of a county relative to a property tax appeal;
- ▶ exempts certain persons presenting evidence or providing property tax information from appraiser licensing provisions in certain circumstances;
- ▶ addresses contingent fees;
- ▶ prohibits the use of certain terms by a person providing a price estimate or property tax information for a property tax appeal; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**



26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **59-2-1001**, as last amended by Laws of Utah 1993, Chapter 227

32 **59-2-1004**, as last amended by Laws of Utah 2012, Chapter 85

33 **59-2-1006**, as last amended by Laws of Utah 1992, Chapter 288

34 **61-2g-301**, as last amended by Laws of Utah 2012, Chapters 166 and 384

35 **61-2g-406**, as renumbered and amended by Laws of Utah 2011, Chapter 289

36 **61-2g-407**, as renumbered and amended by Laws of Utah 2011, Chapter 289

37 ENACTS:

38 **59-2-1017**, Utah Code Annotated 1953



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

41 Section 1. Section **59-2-1001** is amended to read:

42 **59-2-1001. County board of equalization -- Public hearings -- Hearing officers --**  
43 **Notice of decision -- Rulemaking.**

44 (1) The county legislative body is the county board of equalization and the county  
45 auditor is the clerk of the county board of equalization.

46 (2) The county board of equalization shall adjust and equalize the valuation and  
47 assessment of the real and personal property within the county, subject to regulation and  
48 control by the commission, as prescribed by law. The county board of equalization shall meet  
49 and hold public hearings each year to examine the assessment roll and equalize the assessment  
50 of property in the county, including the assessment for general taxes of all taxing entities  
51 located in the county.

52 ~~[(3) For the purpose of this chapter, the county board of equalization may appoint~~  
53 ~~hearing officers for the purpose of examining applicants and witnesses. The hearing officers]~~

54 (3) (a) Except as provided in Subsection (3)(d), a county board of equalization may:

55 (i) appoint an appraiser licensed in accordance with Title 61, Chapter 2g, Real Estate

56 Appraiser Licensing and Certification Act, as a hearing officer for the purpose of examining an

57 applicant or a witness; or

58 (ii) appoint an individual who is not licensed in accordance with Title 61, Chapter 2g,  
59 Real Estate Appraiser Licensing and Certification Act, as a hearing officer for the purpose of  
60 examining an applicant or a witness if the county board of equalization determines that the  
61 individual has competency relevant to the work of a hearing officer, including competency in:

62 (A) real estate;

63 (B) finance;

64 (C) economics;

65 (D) public administration; or

66 (E) law.

67 (b) Except as provided in Subsection (3)(d), beginning on January 1, 2014, a county  
68 board of equalization may only allow an individual to serve as a hearing officer for the  
69 purposes of examining an applicant or a witness if the individual has completed a course the  
70 commission:

71 (i) develops in accordance with Subsection (3)(c)(i); or

72 (ii) approves in accordance with Subsection (3)(c)(ii).

73 (c) (i) On or before January 1, 2014, the commission shall develop a hearing officer  
74 training course that includes training in property valuation and administrative law.

75 (ii) In addition to the course the commission develops in accordance with Subsection  
76 (3)(c)(i), the commission may approve a hearing officer training course provided by a county or  
77 a private entity if the course includes training in property valuation and administrative law.

78 (d) A county board of equalization may not appoint a person employed by an assessor's  
79 office as a hearing officer.

80 (e) A hearing officer shall transmit [their] the hearing officer's findings to the board,  
81 where a quorum shall be required for final action upon any application for exemption, deferral,  
82 reduction, or abatement.

83 (4) The clerk of the board of equalization shall notify the taxpayer, in writing, of any  
84 decision of the board. The decision shall include any adjustment in the amount of taxes due on  
85 the property resulting from a change in the taxable value and shall be considered the corrected  
86 tax notice.

87 (5) During the session of the board, the assessor or any deputy whose testimony is

88 needed shall be present[;] and may make any statement or introduce and examine witnesses on  
89 questions before the board.

90 (6) The county board of equalization may make and enforce any rule which is  
91 consistent with statute or commission rule[;] and necessary for the government of the board,  
92 the preservation of order, and the transaction of business.

93 Section 2. Section **59-2-1004** is amended to read:

94 **59-2-1004. Appeal to county board of equalization -- Real property -- Time**  
95 **period for appeal -- Decision of board -- Extensions approved by commission -- Appeal to**  
96 **commission.**

97 (1) (a) A taxpayer dissatisfied with the valuation or the equalization of the taxpayer's  
98 real property may make an application to appeal by:

99 (i) filing the application with the county board of equalization within the time period  
100 described in Subsection (2); or

101 (ii) making an application by telephone or other electronic means within the time  
102 period described in Subsection (2) if the county legislative body passes a resolution under  
103 Subsection [~~(5)~~] (7) authorizing applications to be made by telephone or other electronic  
104 means.

105 (b) The contents of the application shall be prescribed by rule of the county board of  
106 equalization.

107 (2) (a) Except as provided in Subsection (2)(b), for purposes of Subsection (1), a  
108 taxpayer shall make an application to appeal the valuation or the equalization of the taxpayer's  
109 real property on or before the later of:

110 (i) September 15 of the current calendar year; or

111 (ii) the last day of a 45-day period beginning on the day on which the county auditor  
112 mails the notice under Section 59-2-919.1.

113 (b) Notwithstanding Subsection (2)(a), in accordance with Title 63G, Chapter 3, Utah  
114 Administrative Rulemaking Act, the commission shall make rules providing for circumstances  
115 under which the county board of equalization is required to accept an application to appeal that  
116 is filed after the time period prescribed in Subsection (2)(a).

117 (3) The owner shall include in the application under Subsection (1)(a)(i) the owner's  
118 estimate of the fair market value of the property and any evidence which may indicate that the

119 assessed valuation of the owner's property is improperly equalized with the assessed valuation  
120 of comparable properties.

121 (4) In reviewing evidence submitted to a county board of equalization by or on behalf  
122 of an owner or a county assessor, the county board of equalization shall consider and weigh:

123 (a) the accuracy, reliability, and comparability of the evidence presented by the owner  
124 or the county assessor;

125 (b) if submitted, the sales price of relevant property that was under contract for sale as  
126 of the lien date but sold after the lien date;

127 (c) if submitted, the sales offering price of property that was offered for sale as of the  
128 lien date but did not sell, including considering and weighing the amount of time for which,  
129 and manner in which, the property was offered for sale; and

130 (d) if submitted, other evidence that is relevant to determining the fair market value of  
131 the property.

132 [~~4~~] (5) (a) The county board of equalization shall meet and hold public hearings as  
133 prescribed in Section 59-2-1001.

134 (b) The county board of equalization shall make a decision on each appeal filed in  
135 accordance with this section within a 60-day period after the day on which the application is  
136 made.

137 (c) The commission may approve the extension of a time period provided for in  
138 Subsection [~~4~~] (5)(b) for a county board of equalization to make a decision on an appeal.

139 (d) Unless the commission approves the extension of a time period under Subsection  
140 (5)(c), if a county board of equalization fails to make a decision on an appeal within the time  
141 period described in Subsection (5)(b), the county legislative body shall:

142 (i) list the appeal, by property owner and parcel number, on the agenda for the next  
143 meeting of the county legislative body that is held after the expiration of the time period  
144 described in Subsection (5)(b); and

145 (ii) hear the appeal at the meeting described in Subsection (5)(d)(i).

146 [~~4~~] (e) The decision of the board shall contain a determination of the valuation of the  
147 property based on fair market value, and a conclusion that the fair market value is properly  
148 equalized with the assessed value of comparable properties.

149 [~~4~~] (f) If no evidence is presented before the county board of equalization, it will be

150 presumed that the equalization issue has been met.

151 ~~[(f)]~~ (g) (i) If the fair market value of the property that is the subject of the appeal  
152 deviates plus or minus 5% from the assessed value of comparable properties, the valuation of  
153 the appealed property shall be adjusted to reflect a value equalized with the assessed value of  
154 comparable properties.

155 (ii) Subject to Sections 59-2-301.1, 59-2-301.2, 59-2-301.3, and 59-2-301.4, equalized  
156 value established under Subsection ~~[(4)(f)(i)]~~ (5)(g)(i) shall be the assessed value for property  
157 tax purposes until the county assessor is able to evaluate and equalize the assessed value of all  
158 comparable properties to bring them all into conformity with full fair market value.

159 ~~[(5)]~~ (6) If any taxpayer is dissatisfied with the decision of the county board of  
160 equalization, the taxpayer may file an appeal with the commission as prescribed in Section  
161 59-2-1006.

162 ~~[(6)]~~ (7) A county legislative body may pass a resolution authorizing taxpayers owing  
163 taxes on property assessed by that county to file property tax appeals applications under this  
164 section by telephone or other electronic means.

165 Section 3. Section **59-2-1006** is amended to read:

166 **59-2-1006. Appeal to commission -- Duties of auditor -- Decision by commission.**

167 (1) Any person dissatisfied with the decision of the county board of equalization  
168 concerning the assessment and equalization of any property, or the determination of any  
169 exemption in which the person has an interest, may appeal that decision to the commission by  
170 filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30  
171 days after the final action of the county board.

172 (2) The auditor shall:

173 (a) file one notice with the commission;

174 (b) certify and transmit to the commission:

175 (i) the minutes of the proceedings of the county board of equalization for the matter  
176 appealed;

177 (ii) all documentary evidence received in that proceeding; and

178 (iii) a transcript of any testimony taken at that proceeding that was preserved; and

179 (c) if the appeal is from a hearing where an exemption was granted or denied, certify

180 and transmit to the commission the written decision of the board of equalization as required by

181 Section 59-2-1102.

182 (3) In reviewing the county board's decision, the commission may:

183 (a) admit additional evidence;

184 (b) issue orders that it considers to be just and proper; and

185 (c) make any correction or change in the assessment or order of the county board of  
186 equalization.

187 (4) In reviewing evidence submitted to the commission by or on behalf of an owner or  
188 a county, the commission shall consider and weigh:

189 (a) the accuracy, reliability, and comparability of the evidence presented by the owner  
190 or the county;

191 (b) if submitted, the sales price of relevant property that was under contract for sale as  
192 of the lien date but sold after the lien date;

193 (c) if submitted, the sales offering price of property that was offered for sale as of the  
194 lien date but did not sell, including considering and weighing the amount of time for which,  
195 and manner in which, the property was offered for sale; and

196 (d) if submitted, other evidence that is relevant to determining the fair market value of  
197 the property.

198 [~~4~~] (5) In reviewing the county board's decision, the commission shall adjust property  
199 valuations to reflect a value equalized with the assessed value of other comparable properties  
200 if:

201 (a) the issue of equalization of property values is raised; and

202 (b) the commission determines that the property that is the subject of the appeal  
203 deviates in value plus or minus 5% from the assessed value of comparable properties.

204 [~~5~~] (6) The commission shall decide all appeals taken pursuant to this section not  
205 later than March 1 of the following year for real property and within 90 days for personal  
206 property, and shall report its decision, order, or assessment to the county auditor, who shall  
207 make all changes necessary to comply with the decision, order, or assessment.

208 Section 4. Section **59-2-1017** is enacted to read:

209 **59-2-1017. Property tax appeal assistance.**

210 (1) As used in this section:

211 (a) "Licensed appraiser" means an appraiser licensed in accordance with Title 61,

212 Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

213 (b) "Opinion of value" means an estimate of fair market value that:

214 (i) is made by a licensed appraiser; and

215 (ii) complies with the Uniform Standards of Professional Appraisal Practice

216 promulgated by the Appraisal Standards Board as described in 12 U.S.C. Sec. 3339.

217 (c) "Present evidence" means to present information:

218 (i) to a county board of equalization or the commission; and

219 (ii) related to a property tax appeal made in accordance with this part.

220 (d) "Price estimate" means an estimate:

221 (i) of the price that property would sell for; and

222 (ii) that is not an opinion of value.

223 (e) "Provide property tax information" means to provide information related to a

224 property tax appeal made in accordance with this part to another person.

225 (2) Subject to the other provisions of this section, a person may:

226 (a) present evidence in a property tax appeal on behalf of another person after

227 obtaining permission from that other person; or

228 (b) provide property tax information to another person.

229 (3) For purposes of Subsection (2):

230 (a) only a person who is a licensed appraiser may present or provide an opinion of  
231 value; and

232 (b) only a person who is not a licensed appraiser may present or provide a price  
233 estimate.

234 (4) (a) A licensed appraiser who presents evidence or provides property tax  
235 information in accordance with Subsection (2) is subject to Sections 61-2g-304, 61-2g-403,  
236 61-2g-406, and 62-2g-407.

237 (b) A person who is not a licensed appraiser, who presents evidence or provides  
238 property tax information in accordance with Subsection (2):

239 (i) is subject to Section 61-2g-407; and

240 (ii) if the person charges a contingent fee, is subject to Section 61-2g-406.

241 (5) A county board of equalization or the commission may evaluate the reliability or  
242 accuracy of evidence presented or property tax information provided in accordance with

243 Subsection (2).

244 Section 5. Section **61-2g-301** is amended to read:

245 **61-2g-301. License or certification required.**

246 (1) Except as provided in Subsection (2), it is unlawful for a person to prepare, for  
247 valuable consideration, an appraisal, an appraisal report, a certified appraisal report, or perform  
248 a consultation service relating to real estate or real property in this state without first being  
249 licensed or certified in accordance with this chapter.

250 (2) This section does not apply to:

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

254 (i) regarding the value of real estate;

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

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

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

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

262 (d) an auditor or accountant who states an opinion of value or prepares a report  
263 containing value conclusions relating to real estate or real property while performing an audit;

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

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

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

273 (h) an attorney authorized to practice law in any state who, in the course of the

274 attorney's practice or tax appeal services, uses an appraisal report governed by this chapter or  
275 who states an opinion of the value of real estate[-]; or

276 (i) a person who is not an appraiser who presents or provides a price estimate,  
277 evidence, or property tax information solely for a property tax appeal in accordance with  
278 Section 59-2-1017.

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

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

283 (a) apply in writing for licensure or certification as provided in this chapter in the form  
284 [~~as~~] the division may prescribe; and

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

286 Section 6. Section **61-2g-406** is amended to read:

287 **61-2g-406. Contingent fees.**

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

290 (2) A person who presents or provides a price estimate or property tax information in  
291 accordance with Section 59-2-1017, or a person who is licensed or certified under this chapter  
292 who enters into an agreement to provide consultation services, may be paid a fixed fee or a  
293 contingent fee.

294 (3) (a) If a person who presents or provides a price estimate or property tax information  
295 in accordance with Section 59-2-1017, or a person who is licensed or certified under this  
296 chapter, enters into an agreement to perform consultation services for a contingent fee, this fact  
297 shall be clearly stated in each oral statement.

298 (b) In addition to the requirements of Subsection (3)(a), if a person who presents or  
299 provides a price estimate or property tax information in accordance with Section 59-2-1017, or  
300 a person who is licensed or certified under this chapter, prepares a written consultation report  
301 or summary, letter of transmittal, or certification statement for a contingent fee, the person shall  
302 clearly state in the price estimate property tax information, report, summary, letter of  
303 transmittal, or certification statement that the report is prepared under a contingent fee  
304 arrangement.

305 Section 7. Section **61-2g-407** is amended to read:

306 **61-2g-407. Consultation reports -- Restrictions on use of terms.**

307 A person who presents or provides a price estimate or property tax information in  
308 accordance with Section 59-2-1017, or prepares a written or oral consultation report, may not  
309 refer to the price estimate, property tax information, or consultation report as an appraisal, an  
310 appraisal report, or in any manner that may be interpreted as referring to an appraisal or an  
311 appraisal report.