

**PROPERTY TAX APPEAL PROCESS**

1998 GENERAL SESSION

STATE OF UTAH

**Sponsor: Richard L. Walsh**

AN ACT RELATING TO PROPERTY TAX; PROVIDING THAT IN AN APPEAL BEFORE A COUNTY BOARD OF EQUALIZATION REGARDING THE VALUATION OR EQUALIZATION OF REAL PROPERTY THE BURDEN OF PROOF IS ON THE COUNTY ASSESSOR; PROVIDING FOR VALUATION INFORMATION TO BE MAILED TO THE TAXPAYER AND TO THE COUNTY BOARD OF EQUALIZATION; MAKING TECHNICAL CHANGES; AND PROVIDING FOR RETROSPECTIVE OPERATION.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**59-2-1002**, as repealed and reenacted by Chapter 3, Laws of Utah 1988

**59-2-1004**, as last amended by Chapter 217, Laws of Utah 1996

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

Section 1. Section **59-2-1002** is amended to read:

**59-2-1002. Change in assessment -- Force and effect -- Additional assessments -- Notice to interested persons.**

(1) The county board of equalization shall use all information it may gain from the records of the county or elsewhere, including the information described in Subsection 59-2-1004(4), in equalizing the assessment of the property in the county or in determining any exemptions. The board may require the assessor to enter upon the assessment roll any taxable property which has not been assessed and any assessment made has the same force and effect as if made by the assessor before the delivery of the assessment roll to the county treasurer.

(2) During its sessions, the county board of equalization may direct the assessor to:

(a) assess any taxable property which has escaped assessment;

(b) add to the amount, number, or quantity of property when a false or incomplete list has

1 been rendered; and

2 (c) make and enter new assessments, at the same time cancelling previous entries, when  
3 any assessment made by the assessor is considered by the board to be incomplete or incorrect.

4 (3) The clerk of the board of equalization shall notify all interested persons of the day  
5 fixed for the investigation of any assessment under consideration by the board by letter deposited  
6 in the post office, postpaid, and addressed to the interested person, at least 30 days before action  
7 is taken.

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

9 **59-2-1004. Appeal to county board of equalization -- Real property -- Time --**  
10 **Decision of board -- Extensions approved by commission -- Appeal to commission.**

11 (1) (a) A taxpayer dissatisfied with the valuation or the equalization of the taxpayer's real  
12 property may appeal by:

13 (i) filing an application with the county board of equalization no later than 30 days after  
14 the day on which the county auditor mails the notice under Subsection 59-2-919(4); or

15 (ii) applying by telephone or other electronic means within 30 days after the day on which  
16 the county auditor mails the notice under Subsection 59-2-919(4) if the county legislative body  
17 passes a resolution under Subsection (5) authorizing applications to be made by telephone or other  
18 electronic means.

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

21 (2) The [owner] taxpayer shall include in the application under Subsection (1)(a)(i) the  
22 [owner's] taxpayer's estimate of the fair market value of the property and any evidence which may  
23 indicate that the assessed valuation of the [owner's] taxpayer's property is improperly equalized  
24 with the assessed valuation of comparable properties.

25 (3) In a property tax valuation or equalization appeal proceeding under this section before  
26 the county board of equalization, the county assessor shall have the burden of establishing that:

27 (a) the property's valuation is equal to fair market value; and

28 (b) the property's valuation is properly equalized with the assessed value of comparable  
29 properties.

30 (4) (a) The county assessor shall provide to a taxpayer appealing the taxpayer's property  
31 valuation under this section and to the county board of equalization as provided in Subsection (5)

1 one or more of the following reasons for a change in valuation:

2 (i) a change in the physical characteristics of the property;

3 (ii) corrective action by the commission under:

4 (A) Section 59-2-303; or

5 (B) Section 59-2-704;

6 (iii) an update under Section 59-2-303.1 of:

7 (A) property values; or

8 (B) property characteristics; or

9 (iv) another explanation describing in detail the reason for the increase in value.

10 (b) The county assessor shall as provided in Subsection (5) provide to a taxpayer appealing  
11 a property valuation or equalization under this section the data the assessor used in determining  
12 the property's value or equalization.

13 (5) (a) Except as provided in Subsection (5)(b), the county assessor shall mail to the  
14 taxpayer at the taxpayer's last-known address provided on the tax notice under Section 59-2-919  
15 the information required under Subsection (4) on or before the earlier of:

16 (i) 20 calendar days before the taxpayer's appeal under this section will be heard by the  
17 county board of equalization; or

18 (ii) 30 calendar days after the day on which the taxpayer applies for an appeal under  
19 Subsection (1).

20 (b) Notwithstanding Subsection (5)(a), if the commission grants the county board of  
21 equalization an extension for rendering decisions on appeals under Subsection (6), the county  
22 assessor shall mail to the taxpayer at the taxpayer's last-known address provided on the tax notice  
23 under Section 59-2-919 the information required under Subsection (4) on or before the earlier of:

24 (i) 20 calendar days before the taxpayer's appeal under this section will be heard by the  
25 county board of equalization; or

26 (ii) 60 calendar days after the day on which the taxpayer applies for an appeal under  
27 Subsection (1).

28 ~~[(3)]~~ (6) (a) The board shall meet and hold public hearings as prescribed in Section  
29 59-2-1001. The board shall render a decision on each appeal no later than October 1. Any  
30 extension beyond October 1 shall first be approved by the commission.

31 (b) The decision of the board shall contain a determination of the valuation of the property

1 based on fair market value, and a conclusion that the fair market value is properly equalized with  
2 the assessed value of comparable properties.

3 ~~[(c) If no evidence is presented before the board, it will be presumed that the equalization~~  
4 ~~issue has been met.]~~

5 [(d)] (c) If the fair market value of the property that is the subject of the appeal deviates  
6 plus or minus 5% from the assessed value of comparable properties, the valuation of the appealed  
7 property shall be adjusted to reflect a value equalized with the assessed value of comparable  
8 properties. The equalized value shall be the assessed value for property tax purposes until the  
9 assessor is able to evaluate and equalize the assessed value of all comparable properties to bring  
10 them all into conformity with full fair market value.

11 [(4)] (7) If any taxpayer is dissatisfied with the decision of the board, the taxpayer may file  
12 an appeal with the commission as prescribed in Section 59-2-1006.

13 [(5)] (8) A county legislative body may pass a resolution authorizing taxpayers owing  
14 taxes on property assessed by that county to file property tax appeals applications under this  
15 section by telephone or other electronic means.

16 Section 4. **Retrospective operation.**

17 This act has retrospective operation to January 1, 1998.

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**Legislative Review Note**  
**as of 1-15-98 4:48 PM**

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**