

APPRAISALS AND APPRAISERS

AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Gerry A. Adair

This act modifies the Real Estate Appraiser Licensing and Certification Act and the Property Tax Act. The act amends sections relating to the authority of appraisers in order to comply with federal guidelines. The act makes technical changes to appraisal provisions of the Property Tax Act to reflect changes made in appraiser terminology.

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

AMENDS:

17-17-2, as last amended by Chapter 133, Laws of Utah 2000

59-2-701, as last amended by Chapter 117, Laws of Utah 1999

59-2-702, as last amended by Chapter 5, Laws of Utah 1991

59-2-703, as last amended by Chapter 173, Laws of Utah 1994

61-2b-10, as last amended by Chapter 117, Laws of Utah 1999

61-2b-13, as last amended by Chapter 117, Laws of Utah 1999

61-2b-17, as last amended by Chapter 117, Laws of Utah 1999

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

Section 1. Section **17-17-2** is amended to read:

17-17-2. Assessor to be state qualified -- Vacancy -- Filling vacancy.

(1) In addition to the requirements of Section 17-16-1, any person elected to the office of county assessor after November 1, 1993, shall be a [~~state-registered;~~] state-licensed[;] or state-certified appraiser as defined in Title 61, Chapter 2b, prior to the expiration of [~~24~~] 36 months from the day on which his term of office begins.

(2) (a) If an assessor fails to meet the requirement of this section, the assessor's office is automatically vacant.

(b) (i) In the event of a vacancy under this section, the county executive shall fill the vacancy in the manner provided for in Sections 17-53-104 and 20A-1-508. However, a person

selected to fill the vacancy must be a ~~[state-registered,]~~ state-licensed[;] or state-certified appraiser within six months after assuming the office of county assessor.

(ii) If a ~~[state-registered,]~~ state-licensed[;] or state-certified appraiser cannot be found to fill a vacancy which resulted from the requirements of this section, the county executive may contract with a ~~[state-registered,]~~ state-licensed[;] or state-certified appraiser from outside the county to fill the remainder of the term in the office of county assessor.

Section 2. Section **59-2-701** is amended to read:

59-2-701. Appraisal by certified or licensed appraisers only -- Certification of elected county assessors.

(1) Any person performing an appraisal for purposes of establishing fair market value of real estate or real property for the assessment roll shall be the holder of an appraiser's certificate[;] or license[~~,-or registration~~] issued by the Division of Real Estate under Title 61, Chapter 2b, except uncertified[;] or unlicensed[~~,-or unregistered~~] appraiser trainees may, for up to ~~[24]~~ 36 months after the date of hire or appointment as an appraiser trainee, appraise property under the direction of a holder of an appraiser's certificate or ~~[registration]~~ license issued by the division.

(2) The limitations on appraisal authority under Subsections 61-2b-10(1) and (2) and Section 61-2b-13 do not apply to a person performing an appraisal for purposes of establishing fair market value for the assessment roll.

~~[(2)]~~ (3) The commission may prescribe additional requirements for any person performing an appraisal for purposes of establishing fair market value for the assessment roll.

~~[(3)]~~ (4) The commission may, by rule, establish qualifications for personal property appraisers exempt from ~~[registration]~~ licensure under Title 61, Chapter 2b, Real Estate Appraiser ~~[Registration]~~ Licensing and Certification Act.

~~[(4)]~~ (5) It is the duty of a county assessor, as established in Section 17-17-1, to ensure that the assessor's office is in compliance with this section and any additional rules or requirements for property appraisers established by the commission.

Section 3. Section **59-2-702** is amended to read:

59-2-702. Education and training of appraisers -- Continuing education for appraisers

and county assessors.

(1) The commission shall conduct, at its own expense, a program of education and training of appraisal personnel preparatory to the examination of applicants for appraisers' and assessors' [~~registration and~~] certification or licensure required by Section 59-2-701.

(2) To ensure that the assessment of property will be performed in a professional manner by competent personnel, meeting specified professional qualifications, the commission shall conduct a continuing program of in-service education and training for county assessors and property appraisers in the principles and practices of assessment and appraisal of property. For this purpose the commission may cooperate with educational institutions, local, regional, state, or national assessors' organizations, and with other appropriate professional organizations. The commission may reimburse the participation expenses incurred by assessors and other employees of the state or its subdivisions whose attendance at in-service training programs is approved by the commission.

Section 4. Section **59-2-703** is amended to read:

59-2-703. Commission to assist county assessors -- Appraisers provided upon request -- Costs of services -- Contingency fee arrangements prohibited.

(1) The commission shall, upon request and pursuant to mutual agreement, provide county assessors with technical assistance and appraisal aid. It shall provide [~~registered or~~] certified or licensed appraisers who, upon request of the county assessor and pursuant to mutual agreement, shall perform appraisals of property and other technical services as needed by the county assessor. The costs of these services shall be computed by the commission upon the basis of the number of days of services rendered. Each county shall pay to the commission 50% of the cost of the services which they receive.

(2) (a) Both the commission and counties may contract with a private firm or an individual to conduct appraisals.

(b) Notwithstanding Title 63, Chapter 2, Government Records Access and Management Act, the commission and counties may disclose the name of the taxpayer and the taxpayer's address to the contract appraiser. A private appraiser is subject to the confidentiality requirements and penalty provisions provided in Title 63, Chapter 2, Part 8, [~~Government Records Access and Management~~

Act] Remedies.

(c) Neither the commission nor a county may contract with a private firm or an individual under a contingency fee arrangement to assess property or prosecute or defend an appeal. An appraisal that has been prepared on a contingency fee basis may not be allowed in any proceeding before a county board of equalization or the commission.

Section 5. Section **61-2b-10** is amended to read:

61-2b-10. State-licensed appraiser -- Authority and qualifications.

(1) A state-licensed appraiser is authorized to appraise ~~[all types of real property in this state if the appraisal: (a) is not performed in conjunction with a federally related transaction; or (b) does not exceed the]~~ complex and noncomplex 1-4 family residential units in this state having a transaction value permitted under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and related federal regulations.

(2) A state-licensed appraiser is also authorized to appraise vacant or unimproved land having a transaction value permitted under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and related federal regulations that is utilized for 1-4 family purposes or for which the highest and best use is 1-4 family purposes and subdivisions for which a development analysis/appraisal is not necessary.

~~[(2)]~~ (3) A state-licensed appraiser may not issue a certified appraisal report.

~~[(3)]~~ (4) To qualify as a state-licensed appraiser, an applicant must:

- (a) be of good moral character;
- (b) pass the licensing examination with a satisfactory score as determined by the board;
- (c) successfully complete not less than 90 classroom hours in courses of study approved by the board that relate to:

- (i) real estate appraisal;
- (ii) the Uniform Standards of Professional Appraisal Practice; and
- (iii) ethical rules to be observed by a real estate appraiser as required by Section 61-2b-27;

and

- (d) possess the minimum number of hours of experience in real property appraisal as

established by rule.

~~[(4)]~~ (5) The courses of study under Subsection (3)(b) shall be conducted by:

- (a) an accredited university, college, or junior college;
- (b) an approved appraisal society, institute, or association; or
- (c) such other school as the board may approve.

~~[(5)]~~ (6) The board shall require and pass upon proof necessary to determine the honesty, competency, integrity, and truthfulness of each applicant.

Section 6. Section **61-2b-13** is amended to read:

61-2b-13. State-certified appraisers -- Authority.

(1) A state-certified residential appraiser is authorized to appraise all types of real estate which a state-licensed appraiser is authorized to appraise. ~~[In addition, a]~~

~~(2) A state-certified residential appraiser is also authorized to appraise 1-4 unit residential real estate [in federally related transactions so long as net income capitalization analysis is not required by the terms of the assignment. A state-certified residential appraiser is also authorized to appraise building lots, vacant land, and subdivisions in federally related transactions so long as discounted cash flow analysis is not required by the terms of the assignment] without regard to transaction value or complexity.~~

~~(3) A state-certified residential appraiser is not authorized to appraise subdivisions for which a development analysis/appraisal is necessary.~~

~~[(2)]~~ (4) A state-certified general appraiser is authorized to appraise all types of real estate and real property.

Section 7. Section **61-2b-17** is amended to read:

61-2b-17. State-certified, state-licensed, and state-registered appraisers -- Restrictions on use of terms -- Conduct prohibited.

(1) (a) The terms "state-certified general appraiser," "state-certified residential appraiser," "state-licensed appraiser," "state-registered appraiser," and "senior appraiser" may only be used to refer to an individual who is certified, licensed, or registered under this chapter and may not be used following, or immediately in connection with, the name or signature of a firm, partnership,

corporation, or group, or in any manner that it might be interpreted as referring to a firm, partnership, corporation, group, or to anyone other than the individual who is certified, registered, or licensed under this chapter.

(b) This requirement shall not be construed to prevent a state-certified general appraiser from signing an appraisal report on behalf of a corporation, partnership, firm, or group practice if it is clear that only the individual is certified and that the corporation, partnership, firm, or group practice is not.

(c) Except as provided in Section 61-2b-25, no certificate, registration, or license may be issued under the provisions of this chapter to a corporation, partnership, firm, or group.

(2) (a) No person other than a state-certified general appraiser or state-certified residential appraiser, may assume or use any title, designation, or abbreviation likely to create the impression of certification in this state as a real estate appraiser.

(b) No person other than a state-licensed appraiser may assume or use any title, designation, or abbreviation likely to create the impression of licensure in this state as a real estate appraiser.

(3) (a) Only an individual who has qualified under the certification requirements of Sections 61-2b-14 and 61-2b-15 is authorized to prepare and sign a certified appraisal report relating to real estate or real property in this state.

(b) If a certified appraisal report is prepared and signed by a state-certified residential appraiser, the certified appraisal report shall state, immediately following the signature on the report, "State-Certified Residential Appraiser."

(c) If a certified appraisal report is prepared and signed by a state-certified general appraiser, the certified appraisal report shall state, immediately following the signature on the report, "State-Certified General Appraiser."

(d) An appraisal report prepared by a state-licensed appraiser shall state, immediately following the signature on the report, "[~~State-licensed~~] State-Licensed Appraiser[;]."
[~~along with a disclosure that the appraisal may not qualify for federally related transactions.~~]

(e) When signing a certified appraisal report, a state-certified appraiser shall also place on the report, immediately below his signature, a seal on the report showing his certificate number and

its expiration date.

(f) A state-certified residential appraiser may not prepare a certified appraisal report outside his area of expertise as defined in Section 61-2b-13. However, a state-certified residential appraiser may prepare an appraisal report for any type property for which a state-licensed appraiser is authorized to appraise under Section 61-2b-10.

(g) A state-licensed appraiser or state-registered appraiser who assisted in the preparation of a certified appraisal report is authorized to cosign the certified appraisal report.

(4) A person who has not qualified under either Section 61-2b-14 or 61-2b-15 may not describe or refer to any appraisal or appraisal report relating to real estate or real property in this state by the terms "certified appraisal" or "certified appraisal report."