

**Senator Curtis S. Bramble** proposes the following substitute bill:

**REAL ESTATE VALUATION TAX APPEAL**

2002 GENERAL SESSION

STATE OF UTAH

**Sponsor: Curtis S. Bramble**

**This act amends the Real Estate Appraiser Licensing and Certification Act and the Revenue and Taxation Code. This act exempts real estate brokers, real estate sales agents, and other persons from real estate appraiser licensing and certification requirements when giving an opinion regarding the value of real estate in certain circumstances. The act makes technical changes.**

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

AMENDS:

**59-2-701**, as last amended by Chapter 214, Laws of Utah 2001

**61-2b-3**, as last amended by Chapter 117, Laws of Utah 1999

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

Section 1. Section **59-2-701** is amended to read:

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

(1) (a) 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 issued by the Division of Real Estate under Title 61, Chapter 2b, except uncertified or unlicensed appraiser trainees may, for up to 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 license issued by the division.

(b) Subsection (1)(a) does not apply to:

(i) any person who states an opinion of value if no consideration is paid or agreed to be



26 paid for the opinion and no other party is reasonably expected to rely on the person's appraisal  
27 expertise; or

28 (ii) any person described in Subsection (2) representing or assisting a taxpayer in a real  
29 property tax appeal, provided:

30 (A) the person follows the Uniform Standards of Professional Practice adopted by the Utah  
31 Appraiser Licensing and Certification Board; and

32 (B) the person registers with the county assessor's office prior to or at the time of the  
33 appeal, by completing and filing with the county assessor's office a registration form as described  
34 in Subsection (3).

35 (2) Subsection (1)(b)(ii) applies to any of the following persons:

36 (a) a principal real estate broker or associate real estate broker, as defined in Section  
37 62-2-2, who provides an opinion of value for a parcel of real property; or

38 (b) any person, including a real estate sales agent, as defined in Section 61-2-2, who  
39 provides an opinion of value for a parcel of real property whose fair market value is less than the  
40 "transaction value" set forth in Real Estate Lending and Appraisals, 12 C.F.R. Sec. 34.43(a)(1), as  
41 that "transaction value" may be adjusted from time to time.

42 (3) The registration form referred to in Subsection (1)(b)(ii)(B) will be substantially similar  
43 to the following:

44 REGISTRATION TO OFFER OPINION OF  
45 VALUE IN REAL ESTATE PROPERTY TAX APPEAL(S)

46 (to be submitted to the County Assessor's Office before offering a value opinion in any appeal)

47 Name: \_\_\_\_\_

48 (please print)

49 Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_

50 Office Phone: \_\_\_\_\_ Home Phone: \_\_\_\_\_ e-Mail: \_\_\_\_\_

51 Date of Birth \_\_\_\_\_ Social Security # \_\_\_\_\_

52 My registration is for (choose one):

53 \_\_\_ Appeal(s) on the following property(s), by parcel number(s): \_\_\_\_\_

54 \_\_\_ Any property tax appeals for the tax year 20\_\_ .

55 HONESTY

56 YOU MUST ANSWER BOTH QUESTIONS

57 1. Yes No Have you in the last 5 years been convicted of, or plead guilty or no contest to, any  
58 offense of fraud, misrepresentation, theft, or deceit? If yes, describe.

59 2. Yes No Have you in the last 5 years had a civil judgment entered against you for fraud,  
60 misrepresentation, theft, or deceit? If yes, describe.

61 COMPETENCE

62 YOU MUST CHECK AT LEAST ONE. Please fill out the applicable section completely.

63 \_\_\_\_\_ I am a licensed principal or associate real estate broker in the state of Utah. My license  
64 number is: \_\_\_\_\_ . It expires: \_\_\_\_\_ . I certify that my  
65 opinion(s) of value will be in compliance with the Uniform Standards of Appraisal Practice  
66 as currently adopted by the Utah Appraiser Licensing and Certification Board.

67 \_\_\_\_\_ I am not currently licensed in Utah as either an appraiser or real estate broker. I  
68 acknowledge that I may not offer an opinion of value in a tax appeal for any parcel of real  
69 property whose fair market value exceeds \$ \_\_\_\_\_ [the "transaction value" set forth in  
70 Real Estate Licensing and Appraisals, 12 C.F.R. Sec. 34.43(a)(1), as that "transaction  
71 value" may be adjusted from time to time]. I certify that my opinion(s) of value will be in  
72 compliance with the Uniform Standards of Appraisal Practice as currently adopted by the  
73 Utah Appraiser Licensing and Certification Board. (If you have a real estate sales agent  
74 license, list the # \_\_\_\_\_ and expiration date \_\_\_\_\_.)

75 Date: \_\_\_\_\_

76 Signature: \_\_\_\_\_

77 SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

78 \_\_\_\_\_  
79 NOTARY PUBLIC

80 [~~(2)~~] (4) The limitations on appraisal authority under Subsections 61-2b-10(1) and (2) and  
81 Section 61-2b-13 do not apply to a person performing an appraisal for purposes of establishing fair  
82 market value for the assessment roll.

83 [~~(3)~~] (5) The commission may prescribe additional requirements for any person performing  
84 an appraisal for purposes of establishing fair market value for the assessment roll.

85 [~~(4)~~] (6) The commission may, by rule, establish qualifications for personal property  
86 appraisers exempt from licensure under Title 61, Chapter 2b, Real Estate Appraiser Licensing and  
87 Certification Act.

88           ~~(5)~~ (7) It is the duty of a county assessor, as established in Section 17-17-1, to ensure that  
89 the assessor's office is in compliance with this section and any additional rules or requirements for  
90 property appraisers established by the commission.

91           Section 2. Section **61-2b-3** is amended to read:

92           **61-2b-3. License or certification required.**

93           (1) Except as provided in Subsection (2), it is unlawful for anyone to prepare, for valuable  
94 consideration, an appraisal, an appraisal report, a certified appraisal report, or perform a  
95 consultation service relating to real estate or real property in this state without first being  
96 registered, licensed, or certified in accordance with the provisions of this chapter.

97           (2) This section does not apply to:

98           (a) a principal real estate broker, associate real estate broker, or real estate sales agent, as  
99 defined by Section 61-2-2 [~~licensed by this state~~], who, in the ordinary course of [his] business,  
100 gives an opinion~~[-(i)]~~ regarding the value of real estate~~[-(i)]~~:

101           ~~(i)~~ (i) to a potential seller or third party recommending a listing price of real estate; ~~[or]~~

102           ~~(ii)~~ (ii) to a potential buyer or third party recommending a purchase price of real estate;

103           (iii) as allowed under Subsections 59-2-701(1)(b) and (2); or

104           (iv) in connection with any tax matter or proceeding;

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

107           (c) any official or employee of a government agency while acting solely within the scope  
108 of his duties, unless otherwise required by Utah law;

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

111           (e) an individual, except an individual who is required to be registered, licensed, or  
112 certified under this chapter, who states an opinion about the value of property in which he has an  
113 ownership interest;

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

117           (g) an individual, such as a researcher or a secretary, who does not render significant  
118 professional assistance, as defined by the board, in arriving at a real estate appraisal analysis,

119 opinion, or conclusion; or

120 (h) an attorney authorized to practice law in this state who, in the course of his practice,  
121 utilizes an appraisal report governed by this chapter or who states an opinion of the value of real  
122 estate.

123 (3) No opinion of value or report containing value conclusions exempt under Subsection  
124 (2) may be referred to as an appraisal.