

Representative Gerry A. Adair 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, Real Estate Appraiser Licensing and Certification Act, 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 representing or assisting a taxpayer in a real property tax appeal, provided:

29 (A) the person follows the standards described in Subsection (2); and

30 (B) (I) prior to or at the time the person represents or assists a taxpayer in a real property
31 tax appeal at the county board of equalization, the person completes and files with the county
32 board of equalization a registration form as described in Subsection (3); or

33 (II) prior to or at the time the person represents or assists a taxpayer in a real property tax
34 appeal at the commission, the person completes and files with the county board of equalization or
35 commission a registration form as described in Subsection (3).

36 (2) The standards to be followed under Subsection (1)(b)(ii)(A) are the following portions
37 of the Uniform Standards of Professional Appraisal Practice adopted by the Utah Appraiser
38 Licensing and Certification Board:

39 (a) Standard 5, Real Property Appraisal Consulting, Reporting, and the Ethics Rule,
40 excluding, for a parcel of real property described as follows, provisions of both that preclude
41 serving as an advocate for the taxpayer or accepting compensation that is contingent upon a tax
42 refund being granted to the taxpayer:

43 (i) a family dwelling, for one to four families, with a value of \$1,000,000 or less; or

44 (ii) a commercial property with a value of \$1,000,000 or less;

45 (b) the Competency Rule;

46 (c) Standard 1, Real Property Appraisal Development;

47 (d) Standard 2, Real Property Appraisal, Reporting; and

48 (e) Standard 4, Real Property Appraisal Consulting, Development.

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

51 REGISTRATION TO OFFER OPINION OF
52 VALUE IN REAL ESTATE PROPERTY TAX APPEAL(S)

53 Name: _____

54 (please print)

55 Address: _____ City: _____ State: _____

56 Office Phone: _____ Home Phone: _____ e-Mail: _____

57 Date of Birth _____ Social Security # _____

58 My registration is for (choose one):

59 ___ Appeal(s) on the following property(s), by parcel number(s): _____

60 ___ Any property tax appeals for the tax year 20 .

61 HONESTY

62 YOU MUST ANSWER ALL QUESTIONS

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

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

67 3. Yes No Have you ever had an appraiser license in this or any other state that has been
68 ___ ___ revoked or suspended?

69 4. Yes No Is your compensation contingent upon a tax refund being granted?
70 ___ ___

71 COMPETENCE

72 I certify that my opinion(s) of value will be in compliance with the following portions of the
73 Uniform Standards of Appraisal Practice as currently adopted by the Utah Appraiser Licensing and
74 Certification Board: Standard 5, Real Property Appraisal Consulting, Reporting, and the Ethics
75 Rule (except that I understand that I may serve as an advocate for the taxpayer in the appeal and
76 may accept compensation that is contingent on a tax refund being granted for a family dwelling,
77 for one to four families, with a value of \$1,000,000 or less, or for a commercial property with a
78 value of \$1,000,000 or less); the Competency Rule; Standard 1, Real Property Appraisal,
79 Development; Standard 2, Real Property Appraisal, Reporting; and Standard 4, Real Property
80 Appraisal Consulting, Development.

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

82 ___ I am a licensed principal or associate real estate broker in the state of Utah. My license
83 number is: _____ . It expires: _____ .

84 ___ I am a licensed real estate sales agent in the state of Utah. My license number is:
85 _____ . It expires: _____ .

86 ___ I am not currently licensed in Utah as either an appraiser or real estate broker or sales
87 agent.

88 Date: _____

89 Signature: _____

90 SUBSCRIBED AND SWORN to before me this _____ day of _____, _____

91 _____

92 NOTARY PUBLIC

93 [(2)] (4) The limitations on appraisal authority under Subsections 61-2b-10(1) and (2) and
94 Section 61-2b-13 do not apply to a person performing an appraisal for purposes of establishing fair
95 market value for the assessment roll.

96 [(3)] (5) The commission may prescribe additional requirements for any person performing
97 an appraisal for purposes of establishing fair market value for the assessment roll.

98 [(4)] (6) The commission may, by rule, establish qualifications for personal property
99 appraisers exempt from licensure under Title 61, Chapter 2b, Real Estate Appraiser Licensing and
100 Certification Act.

101 [(5)] (7) It is the duty of a county assessor, as established in Section 17-17-1, to ensure that
102 the assessor's office is in compliance with this section and any additional rules or requirements for
103 property appraisers established by the commission.

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

105 **61-2b-3. License or certification required.**

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

110 (2) This section does not apply to:

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

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

115 [(ii)] (ii) to a potential buyer or third party recommending a purchase price of real estate;

116 [(iii)] (iii) as allowed under Subsections 59-2-701(1)(b); or

117 [(iv)] (iv) in connection with any tax matter or proceeding;

118 (b) an employee of a company who states an opinion of value or prepares a report

119 containing value conclusions relating to real estate or real property solely for the company's use;

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

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

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

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

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

133 (h) an attorney authorized to practice law in this state who, in the course of his practice,
134 utilizes an appraisal report governed by this chapter or who states an opinion of the value of real
135 estate[-]; or

136 (i) any person representing or assisting a taxpayer in a real property tax appeal, as allowed
137 under Subsections 59-2-701(1)(b).

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