

**PROPERTY TAX - CONFIDENTIALITY OF
CERTAIN INFORMATION**

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Howard A. Stephenson

LONG TITLE

General Description:

This bill amends provisions of the Revenue and Taxation code relating to confidentiality of information.

Highlighted Provisions:

This bill:

- ▶ amends and provides definitions;
- ▶ provides circumstances under which certain individuals may:
 - disclose information;
 - disclose commercial information; or
 - file a lien;
- ▶ modifies penalty provisions to provide that an officer or employee of the state or a county who violates the property tax confidentiality statute may only be dismissed from office and be disqualified from holding public office for a certain time period if that officer or employee is convicted of violating the property tax confidentiality statute; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **59-1-404**, as enacted by Chapter 7, Laws of Utah 2003, Second Special Session



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

33 Section 1. Section **59-1-404** is amended to read:

34 **59-1-404. Definitions -- Confidentiality of commercial information obtained from**
35 **a property taxpayer or derived from the commercial information -- Exceptions -- Penalty.**

36 (1) As used in this section[;]:

37 (a) (i) "commercial information" means:

38 ~~[(a)] (A) information of a commercial nature [obtained from a property taxpayer]~~
39 regarding a property taxpayer's property; or

40 ~~[(b)] (B) information derived from the information described in this Subsection~~

41 ~~(1)(a)[-](i); and~~

42 (ii) (A) "commercial information" does not include information regarding a property
43 taxpayer's property if the information is:

44 (I) received from a person other than the property taxpayer; and

45 (II) intended for public use; and

46 (B) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
47 for purposes of Subsection (1)(a)(ii)(A), the commission may by rule prescribe the
48 circumstances under which information is intended for public use; and

49 (b) "property taxpayer" means a person that:

50 (i) is a property owner; or

51 (ii) has in effect a contract with a property owner to:

52 (A) make filings on behalf of the property owner;

53 (B) process appeals on behalf of the property owner; or

54 (C) pay a tax under Chapter 2, Property Tax Act, on the property owner's property.

55 (2) Except as provided in Subsections (3) through ~~[(8)] (7)~~, an individual listed under
56 Subsection 59-1-403(1)(a) may not disclose commercial information.

57 (3) (a) Notwithstanding Subsection (2) and subject to Subsection (3)(b), an individual
58 listed under Subsection 59-1-403(1)(a) may disclose the following information:

- 59 ~~[(a)]~~ (i) the assessed value of property;
- 60 ~~[(b)]~~ (ii) the amount of tax assessed on property;
- 61 ~~[(c)]~~ (iii) the tax rate imposed on property;
- 62 ~~[(d)]~~ (iv) a legal description of property;
- 63 ~~[(e)-a]~~ (v) the physical description or characteristics of property~~[-or]~~, including a street
- 64 address or parcel number for the property;
- 65 ~~[(f)]~~ (vi) the square footage or acreage of property~~[-]~~;
- 66 (vii) the square footage of improvements on property;
- 67 (viii) the name of a property taxpayer;
- 68 (ix) the mailing address of a property taxpayer;
- 69 (x) the amount of a property tax:
- 70 (A) due on property;
- 71 (B) collected on property; or
- 72 (C) abated on property;
- 73 (xi) the amount of the following relating to property taxes due on property:
- 74 (A) interest;
- 75 (B) costs; or
- 76 (C) other charges;
- 77 (xii) the tax status of property, including:
- 78 (A) an exemption;
- 79 (B) a property classification; or
- 80 (C) a bankruptcy filing;
- 81 (xiii) information relating to a tax sale of property; or
- 82 (xiv) information relating to single-family residential property.
- 83 (b) (i) Subject to Subsection (3)(b)(ii), a person may receive the information described
- 84 in Subsection (3)(a) in written format.
- 85 (ii) The following may charge a reasonable fee to cover the actual cost of providing the
- 86 information described in Subsection (3)(a) in written format:
- 87 (A) the commission;
- 88 (B) a county;
- 89 (C) a city; or

90 (D) a town.

91 (4) (a) Notwithstanding Subsection (2) and except as provided in Subsection
92 (4)~~(b)~~(c), an individual listed under Subsection 59-1-403(1)(a) shall disclose commercial
93 information:

94 (i) in accordance with judicial order;

95 (ii) on behalf of the commission in any action or proceeding:

96 (A) under this title;

97 (B) under another law under which a property taxpayer is required to disclose
98 commercial information; or

99 (C) to which the commission is a party; ~~or~~

100 (iii) on behalf of any party to any action or proceeding under this title if the commercial
101 information is directly involved in the action or proceeding~~[-]; or~~

102 (iv) if the requirements of Subsection (4)(b) are met, that is:

103 (A) directly involved in an action or proceeding involving property if that action or
104 proceeding has been filed in accordance with this title;

105 (B) relevant to an action or proceeding involving property if that action or proceeding
106 has been filed in accordance with this title; or

107 (C) in preparation for an action or proceeding involving property if that action or
108 proceeding has been filed in accordance with this title.

109 (b) Commercial information shall be disclosed in accordance with Subsection

110 (4)(a)(iv):

111 (A) if the commercial information is obtained from:

112 (I) a realtor;

113 (II) an appraiser;

114 (III) a property manager; or

115 (IV) a property taxpayer other than a property taxpayer of the property that is the
116 subject of the action or proceeding; and

117 (B) (I) if a county board of equalization conducts the action or proceeding, the county
118 board of equalization takes action to provide that any commercial information disclosed during
119 the action or proceeding may not be disclosed by any person conducting or participating in the
120 action or proceeding outside the action or proceeding;

121 (II) if the commission conducts the action or proceeding, the commission enters a
 122 protective order or, in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
 123 Act, makes rules specifying that any commercial information disclosed during the action or
 124 proceeding may not be disclosed by any person conducting or participating in the action or
 125 proceeding outside the action or proceeding; or

126 (III) if a court of competent jurisdiction conducts the action or proceeding, the court
 127 enters a protective order specifying that any commercial information disclosed during the
 128 action or proceeding may not be disclosed by any person conducting or participating in the
 129 action or proceeding outside the action or proceeding.

130 ~~[(b)]~~ (c) Notwithstanding Subsection (4)(a), a court may require the production of, and
 131 may admit in evidence, commercial information that is specifically pertinent to the action or
 132 proceeding.

133 (5) Notwithstanding Subsection (2), this section does not prohibit:

134 (a) ~~[a property taxpayer or that property taxpayer's duly authorized representative]~~ the
 135 following from receiving a copy of any commercial information relating to ~~[the]~~ a property
 136 taxpayer's own tax[*];

137 (i) the property taxpayer;

138 (ii) a duly authorized representative of the property taxpayer;

139 (iii) a person that has in effect a contract with the property taxpayer to:

140 (A) make filings on behalf of the property taxpayer;

141 (B) process appeals on behalf of the property taxpayer; or

142 (C) pay a tax under Chapter 2, Property Tax Act, on the property taxpayer's property;

143 or

144 (iv) a person that the property taxpayer designates in writing as being authorized to
 145 receive the commercial information;

146 (b) the publication of statistics as long as the statistics are classified to prevent the
 147 identification of ~~[(i) a]~~ a particular property taxpayer's commercial information; or

148 ~~[(ii) a property taxpayer; and]~~

149 (c) the inspection by the attorney general or other legal representative of the state or a
 150 legal representative of a political subdivision of the state of the commercial information of a
 151 property taxpayer:

152 (i) that brings action to set aside or review a tax or property valuation based on the
153 commercial information;

154 (ii) against which an action or proceeding is contemplated or has been instituted under
155 this title; or

156 (iii) against which the state or a political subdivision of the state has an unsatisfied
157 money judgment.

158 [~~(6)~~ Notwithstanding Subsection (2), the commission may by rule, made in accordance
159 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, provide for the issuance of
160 information concerning the identity and other property tax information of a property taxpayer
161 that has failed to file a property tax return or pay any property tax due.]

162 [(7)] (6) Notwithstanding Subsection (2), in accordance with Title 63, Chapter 46a,
163 Utah Administrative Rulemaking Act, the commission may by rule establish standards
164 authorizing an individual listed under Subsection 59-1-403(1)(a) to disclose commercial
165 information:

166 (a) (i) in a published decision; or

167 (ii) in carrying out official duties; and

168 (b) if that individual listed under Subsection 59-1-403(1)(a) consults with the property
169 taxpayer that provided the commercial information.

170 [(8)] (7) Notwithstanding Subsection (2), [the commission] an individual listed under
171 Subsection 59-1-403(1)(a) may:

172 (a) share commercial information with [a county assessor] the following in accordance
173 with the authority provided in Chapter 2, Property Tax Act[; or]:

174 (i) another individual listed in Subsection 59-1-403(1)(a)(i) or (ii); or

175 (ii) a representative, agent, clerk, or other officer or employee of the county in which
176 the property that is the subject of the commercial information is located;

177 (b) perform the following to fulfill an obligation created by Chapter 2, Property Tax
178 Act:

179 (i) publish notice;

180 (ii) provide notice; or

181 (iii) file a lien; or

182 [(b)] (c) by rule, made in accordance with Title 63, Chapter 46a, Utah Administrative

183 Rulemaking Act, share commercial information gathered from returns and other written
184 statements with the federal government, any other state, any of the political subdivisions of
185 another state, or any political subdivision of this state, if these political subdivisions or the
186 federal government grant substantially similar privileges to this state.

187 ~~[(9)]~~ (8) (a) Any individual listed under Subsection 59-1-403(1)(a) who violates this
188 section is guilty of a class A misdemeanor.

189 (b) If the individual described in Subsection ~~[(9)]~~ (8)(a) is an officer or employee of the
190 state or a county and is convicted of violating this section, the individual shall be dismissed
191 from office and be disqualified from holding public office in this state for a period of five years
192 thereafter.

193 Section 2. **Effective date.**

194 If approved by two-thirds of all the members elected to each house, this bill takes effect
195 upon approval by the governor, or the day following the constitutional time limit of Utah
196 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
197 the date of veto override.

Legislative Review Note
as of 2-19-04 5:24 PM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0163

Property Tax - Confidentiality of Certain Information

23-Feb-04

11:37 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst