

1                                   **PROPERTY TAX CONFIDENTIALITY**

2   **AMENDMENTS**

3   2005 GENERAL SESSION

4   STATE OF UTAH

5   **Sponsor: Howard A. Stephenson**

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7   **LONG TITLE**

8   **General Description:**

9                   This bill amends the Revenue and Taxation title to address the confidentiality of  
10 information relating to property tax.

11 **Highlighted Provisions:**

12                   This bill:

13                   ▶ modifies the circumstances under which commercial information shall or may not  
14 be disclosed;

15                   ▶ modifies the circumstances under which an individual who discloses commercial  
16 information is guilty of a class A misdemeanor;

17                   ▶ requires the commission to prepare a written explanation of the property tax  
18 confidentiality provisions and make that written explanation available to the public;

19                   ▶ requires an employer to provide the written explanation to certain persons who are  
20 reasonably likely to receive commercial information;

21                   ▶ requires a person who receives the written explanation to read and sign the written  
22 explanation;

23                   ▶ requires an employer to retain a signed written explanation for a specified time  
24 period;

25                   ▶ grants rulemaking authority to the State Tax Commission; and

26                   ▶ makes technical changes.

27 **Monies Appropriated in this Bill:**



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **59-1-404**, as last amended by Chapter 294, Laws of Utah 2004



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

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

37 **59-1-404. Definitions -- Confidentiality of commercial information obtained from**  
38 **a property taxpayer or derived from the commercial information -- Rulemaking**  
39 **authority -- Exceptions -- Penalty.**

40 (1) As used in this section:

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

42 (A) information of a commercial nature obtained from a property taxpayer regarding  
43 the property taxpayer's property; or

44 (B) information derived from the information described in this Subsection (1)(a)(i);

45 and

46 (ii) (A) "commercial information" does not include information regarding a property  
47 taxpayer's property if the information is intended for public use; and

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

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

52 (i) is a property owner; or

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

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

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

56 (C) pay a tax under Chapter 2, Property Tax Act, on the property owner's property; and

57 (c) "property taxpayer's property" means property with respect to which a property  
58 taxpayer:

- 59 (i) owns the property;
- 60 (ii) makes filings relating to the property;
- 61 (iii) processes appeals relating to the property; or
- 62 (iv) pays a tax under Chapter 2, Property Tax Act, on the property.
- 63 (2) Except as provided in Subsections (3) through (7), an individual listed under
- 64 Subsection 59-1-403(1)(a) may not disclose commercial information:
- 65 (a) obtained in the course of performing any duty that the individual listed under
- 66 Subsection 59-1-403(1)(a) performs under Chapter 2, Property Tax Act; or
- 67 (b) relating to an action or proceeding:
- 68 (i) with respect to a tax imposed on property in accordance with Chapter 2, Property
- 69 Tax Act; and
- 70 (ii) that is filed in accordance with:
- 71 (A) this chapter[-];
- 72 (B) Chapter 2, Property Tax Act; or
- 73 (C) this chapter and Chapter 2, Property Tax Act.
- 74 (3) (a) Notwithstanding Subsection (2) and subject to Subsection (3)(b), an individual
- 75 listed under Subsection 59-1-403(1)(a) may disclose the following information:
- 76 (i) the assessed value of property;
- 77 (ii) the tax rate imposed on property;
- 78 (iii) a legal description of property;
- 79 (iv) the physical description or characteristics of property, including a street address or
- 80 parcel number for the property;
- 81 (v) the square footage or acreage of property;
- 82 (vi) the square footage of improvements on property;
- 83 (vii) the name of a property taxpayer;
- 84 (viii) the mailing address of a property taxpayer;
- 85 (ix) the amount of a property tax:
- 86 (A) assessed on property;
- 87 (B) due on property;
- 88 (C) collected on property;
- 89 (D) abated on property; or

- 90 (E) deferred on property;
- 91 (x) the amount of the following relating to property taxes due on property:
- 92 (A) interest;
- 93 (B) costs; or
- 94 (C) other charges;
- 95 (xi) the tax status of property, including:
- 96 (A) an exemption;
- 97 (B) a property classification;
- 98 (C) a bankruptcy filing; or
- 99 (D) whether the property is the subject of an action or proceeding under this title;
- 100 (xii) information relating to a tax sale of property; or
- 101 (xiii) information relating to single-family residential property.
- 102 (b) (i) Subject to Subsection (3)(b)(ii), a person may receive the information described
- 103 in Subsection (3)(a) in written format.
- 104 (ii) The following may charge a reasonable fee to cover the actual cost of providing the
- 105 information described in Subsection (3)(a) in written format:
- 106 (A) the commission;
- 107 (B) a county;
- 108 (C) a city; or
- 109 (D) a town.
- 110 (4) (a) Notwithstanding Subsection (2) and except as provided in Subsection (4)(c), an
- 111 individual listed under Subsection 59-1-403(1)(a) shall disclose commercial information:
- 112 (i) in accordance with judicial order;
- 113 (ii) on behalf of the commission in any action or proceeding:
- 114 (A) under this title;
- 115 (B) under another law under which a property taxpayer is required to disclose
- 116 commercial information; or
- 117 (C) to which the commission is a party;
- 118 (iii) on behalf of any party to any action or proceeding under this title if the commercial
- 119 information is directly involved in the action or proceeding; or
- 120 (iv) if the requirements of Subsection (4)(b) are met, that is:

121 ~~[(A) directly involved in an action or proceeding involving property if that action or~~  
122 ~~proceeding has been filed in accordance with this title;]~~

123 ~~[(B)]~~ (A) relevant to an action or proceeding;

124 (I) filed in accordance with this title; and

125 (II) involving property [if that action or proceeding has been filed in accordance with  
126 this title]; or

127 ~~[(C)]~~ (B) in preparation for an action or proceeding involving property ~~[if that action or~~  
128 ~~proceeding has been filed in accordance with this title].~~

129 (b) Commercial information shall be disclosed in accordance with Subsection  
130 (4)(a)(iv):

131 (i) if the commercial information is obtained from:

132 (A) a real estate agent if the real estate agent is not a property taxpayer of the property  
133 that is the subject of the action or proceeding;

134 (B) an appraiser if the appraiser is not a property taxpayer of the property that is the  
135 subject of the action or proceeding;

136 (C) a property manager if the property manager is not a property taxpayer of the  
137 property that is the subject of the action or proceeding; or

138 (D) a property taxpayer other than a property taxpayer of the property that is the subject  
139 of the action or proceeding;

140 (ii) regardless of whether the commercial information is disclosed in more than one  
141 action or proceeding; and

142 (iii) (A) if a county board of equalization conducts the action or proceeding, the county  
143 board of equalization takes action to provide that any commercial information disclosed during  
144 the action or proceeding may not be disclosed by any person conducting or participating in the  
145 action or proceeding ~~[outside the action or proceeding]~~ except as specifically allowed by this  
146 section;

147 (B) if the commission conducts the action or proceeding, the commission enters a  
148 protective order or, in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking  
149 Act, makes rules specifying that any commercial information disclosed during the action or  
150 proceeding may not be disclosed by any person conducting or participating in the action or  
151 proceeding ~~[outside the action or proceeding]~~ except as specifically allowed by this section; or

152 (C) if a court of competent jurisdiction conducts the action or proceeding, the court  
153 enters a protective order specifying that any commercial information disclosed during the  
154 action or proceeding may not be disclosed by any person conducting or participating in the  
155 action or proceeding [~~outside the action or proceeding~~] except as specifically allowed by this  
156 section.

157 (c) Notwithstanding Subsection (4)(a), a court may require the production of, and may  
158 admit in evidence, commercial information that is specifically pertinent to the action or  
159 proceeding.

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

161 (a) the following from receiving a copy of any commercial information relating to the  
162 basis for assessing a tax that is charged to a property taxpayer:

163 (i) the property taxpayer;

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

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

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

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

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

169 (iv) a property taxpayer that purchases property from another property taxpayer; or

170 (v) a person that the property taxpayer designates in writing as being authorized to  
171 receive the commercial information;

172 (b) the publication of statistics as long as the statistics are classified to prevent the  
173 identification of a particular property taxpayer's commercial information; or

174 (c) the inspection by the attorney general or other legal representative of the state or a  
175 legal representative of a political subdivision of the state of the commercial information of a  
176 property taxpayer:

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

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

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

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

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

187 (ii) in carrying out official duties; and

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

190 (7) Notwithstanding Subsection (2):

191 (a) an individual listed under Subsection 59-1-403(1)(a) may share commercial  
192 information with the following:

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

194 (ii) a representative, agent, clerk, or other officer or employee of a county as required  
195 to fulfill an obligation created by Chapter 2, Property Tax Act;

196 (b) an individual listed under Subsection 59-1-403(1)(a) may perform the following to  
197 fulfill an obligation created by Chapter 2, Property Tax Act:

198 (i) publish notice;

199 (ii) provide notice; or

200 (iii) file a lien; or

201 (c) the commission may by rule, made in accordance with Title 63, Chapter 46a, Utah  
202 Administrative Rulemaking Act, share commercial information gathered from returns and other  
203 written statements with the federal government, any other state, any of the political  
204 subdivisions of another state, or any political subdivision of this state, if these political  
205 subdivisions or the federal government grant substantially similar privileges to this state.

206 (8) (a) The commission shall:

207 (i) prepare a written explanation of this section; and

208 (ii) make the written explanation described in Subsection (8)(a)(i) available to the  
209 public.

210 (b) An employer of a person described in Subsection 59-1-403(1)(a) shall:

211 (i) provide the written explanation described in Subsection (8)(a)(i) to each person  
212 described in Subsection 59-1-403(1)(a) who is reasonably likely to receive commercial  
213 information;

214 (ii) require each person who receives a written explanation in accordance with  
 215 Subsection (8)(b)(i) to:  
 216 (A) read the written explanation; and  
 217 (B) sign the written explanation; and  
 218 (iii) retain each written explanation that is signed in accordance with Subsection  
 219 (8)(b)(ii) for a time period:  
 220 (A) beginning on the day on which a person signs the written explanation in  
 221 accordance with Subsection (8)(b)(ii); and  
 222 (B) ending six years after the day on which the employment of the person described in  
 223 Subsection (8)(b)(iii)(A) by the employer terminates.  
 224 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
 225 commission shall by rule define "employer."  
 226 ~~[(8)]~~ (9) (a) Any individual listed under Subsection 59-1-403(1)(a) [who violates this  
 227 section] is guilty of a class A misdemeanor[-] if that person:  
 228 (i) intentionally discloses commercial information in violation of this section; and  
 229 (ii) knows that the disclosure described in Subsection (9)(a)(i) is prohibited by this  
 230 section.  
 231 (b) If the individual described in Subsection ~~[(8)]~~ (9)(a) is an officer or employee of the  
 232 state or a county and is convicted of violating this section, the individual shall be dismissed  
 233 from office and be disqualified from holding public office in this state for a period of five years  
 234 thereafter.

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**Legislative Review Note**  
 as of 1-25-05 2:55 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**



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**Fiscal Note**  
**Bill Number SB0054**

Property Tax Confidentiality Amendments

28-Jan-05

9:58 AM

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**State Impact**

No fiscal impact.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**