

Senator Howard A. Stephenson proposes the following substitute bill:

**DISCLOSURE OF PROPERTY TAX
INFORMATION**

2007 GENERAL SESSION
STATE OF UTAH

Chief Sponsor: Howard A. Stephenson

House Sponsor: Wayne A. Harper

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends the confidentiality provisions related to the usage or production of commercial property tax information; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-1-404, as last amended by Chapter 251, Laws of Utah 2005



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

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

28 **59-1-404. Definitions -- Confidentiality of commercial information obtained from**
29 **a property taxpayer or derived from the commercial information -- Rulemaking**
30 **authority -- Exceptions -- Written explanation -- Signature requirements -- Retention of**
31 **signed explanation by employer -- Penalty.**

32 (1) As used in this section:

33 (a) "Appraiser" means an individual who holds an appraiser's certificate or license
34 issued by the Division of Real Estate under Title 61, Chapter 2b, Real Estate Appraiser
35 Licensing and Certification Act and includes an individual associated with an appraiser who
36 assists the appraiser in preparing an appraisal.

37 (b) "Appraisal" means an appraisal as defined in Section 61-2b-2.

38 [~~(a)~~] (c) (i) "Commercial information" means:

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

41 (B) information derived from the information described in this Subsection (1)(a)(i)[~~;~~
42 ~~and~~].

43 (ii) (A) "Commercial information" does not include information regarding a property
44 taxpayer's property if the information is intended for public use[~~;~~~~and~~].

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

48 (d) "Consultation service" means a consultation service as defined in Section 61-2b-2.

49 (e) "Locally assessed property" means property that is assessed by a county assessor in
50 accordance with Chapter 2, Part 3, County Assessment.

51 [~~(b)~~] (f) "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[~~;~~

57 and].

58 ~~[(e)]~~ (g) "Property taxpayer's property" means property with respect to which a property
59 taxpayer:

60 (i) owns the property;

61 (ii) makes filings relating to the property;

62 (iii) processes appeals relating to the property; or

63 (iv) pays a tax under Chapter 2, Property Tax Act, on the property.

64 (h) "Protected commercial information" means commercial information that:

65 (i) identifies a specific property taxpayer; or

66 (ii) would reasonably lead to the identity of a specific property taxpayer.

67 (2) ~~[Except as provided in Subsections (3) through (7), an]~~ An individual listed under
68 Subsection 59-1-403(1)(a) may not disclose commercial information:

69 (a) obtained in the course of performing any duty that the individual listed under
70 Subsection 59-1-403(1)(a) performs under Chapter 2, Property Tax Act; or

71 (b) relating to an action or proceeding:

72 (i) with respect to a tax imposed on property in accordance with Chapter 2, Property
73 Tax Act; and

74 (ii) that is filed in accordance with:

75 (A) this chapter;

76 (B) Chapter 2, Property Tax Act; or

77 (C) this chapter and Chapter 2, Property Tax Act.

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

80 (i) the assessed value of property;

81 (ii) the tax rate imposed on property;

82 (iii) a legal description of property;

83 (iv) the physical description or characteristics of property, including a street address or
84 parcel number for the property;

85 (v) the square footage or acreage of property;

86 (vi) the square footage of improvements on property;

87 (vii) the name of a property taxpayer;

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

119 (B) under another law under which a property taxpayer is required to disclose
120 commercial information; or
121 (C) to which the commission is a party;
122 (iii) on behalf of any party to any action or proceeding under this title if the commercial
123 information is directly involved in the action or proceeding; or
124 (iv) if the requirements of Subsection (4)(b) are met, that is:
125 (A) relevant to an action or proceeding:
126 (I) filed in accordance with this title; and
127 (II) involving property; or
128 (B) in preparation for an action or proceeding involving property.
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;
135 (I) is not a property taxpayer of the property that is the subject of the action or
136 proceeding; and
137 (II) did not receive the commercial information pursuant to Subsection (8);
138 (C) a property manager if the property manager is not a property taxpayer of the
139 property that is the subject of the action or proceeding; or
140 (D) a property taxpayer other than a property taxpayer of the property that is the subject
141 of the action or proceeding;
142 (ii) regardless of whether the commercial information is disclosed in more than one
143 action or proceeding; and
144 (iii) (A) if a county board of equalization conducts the action or proceeding, the county
145 board of equalization takes action to provide that any commercial information disclosed during
146 the action or proceeding may not be disclosed by any person conducting or participating in the
147 action or proceeding except as specifically allowed by this section;
148 (B) if the commission conducts the action or proceeding, the commission enters a
149 protective order or, in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking

150 Act, makes rules specifying that any commercial information disclosed during the action or
151 proceeding may not be disclosed by any person conducting or participating in the action or
152 proceeding except as specifically allowed by this section; or

153 (C) if a court of competent jurisdiction conducts the action or proceeding, the court
154 enters a protective order specifying that any commercial information disclosed during the
155 action or proceeding may not be disclosed by any person conducting or participating in the
156 action or proceeding except as specifically allowed by this 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) Notwithstanding Subsection (2):

207 (a) subject to the limitations in this section, an individual described in Subsection
208 59-1-403(1)(a) may share the following commercial information with an appraiser:

209 (i) the sales price of locally assessed property and the related financing terms;

210 (ii) capitalization rates and related rates and ratios related to the valuation of locally
211 assessed property; and

212 (iii) income and expense information related to the valuation of locally assessed
213 property; and
214 (b) except as provided in Subsection (4), an appraiser who receives commercial
215 information:
216 (i) may disclose the commercial information:
217 (A) to an individual described in Subsection 59-1-403(1)(a);
218 (B) to an appraiser;
219 (C) in an appraisal if protected commercial information is removed to protect its
220 confidential nature; or
221 (D) in performing a consultation service if protected commercial information is not
222 disclosed; and
223 (ii) may not use the commercial information:
224 (A) for a purpose other than to prepare an appraisal or perform a consultation service;
225 or
226 (B) for a purpose intended to be, or which could reasonably be foreseen to be,
227 anti-competitive to a property taxpayer.
228 ~~[(8)]~~ (9) (a) The commission shall:
229 (i) prepare a written explanation of this section; and
230 (ii) make the written explanation described in Subsection ~~[(8)]~~ (9)(a)(i) available to the
231 public.
232 (b) An employer of a person described in Subsection 59-1-403(1)(a) shall:
233 (i) provide the written explanation described in Subsection ~~[(8)]~~ (9)(a)(i) to each
234 person described in Subsection 59-1-403(1)(a) who is reasonably likely to receive commercial
235 information;
236 (ii) require each person who receives a written explanation in accordance with
237 Subsection ~~[(8)]~~ (9)(b)(i) to:
238 (A) read the written explanation; and
239 (B) sign the written explanation; and
240 (iii) retain each written explanation that is signed in accordance with Subsection ~~[(8)]~~
241 (9)(b)(ii) for a time period:
242 (A) beginning on the day on which a person signs the written explanation in

243 accordance with Subsection ~~[(8)]~~ (9)(b)(ii); and

244 (B) ending six years after the day on which the employment of the person described in
245 Subsection ~~[(8)]~~ (9)(b)(iii)(A) by the employer terminates.

246 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
247 commission shall by rule define "employer."

248 ~~[(9)]~~ (10) (a) ~~[Any]~~ An individual [listed under Subsection 59-1-403(1)(a)] described
249 in Subsection (1)(a) or 59-1-403(1)(a), or an individual that violates a protective order or
250 similar limitation entered pursuant to Subsection (4)(b)(iii), is guilty of a class A misdemeanor
251 if that person:

252 (i) intentionally discloses commercial information in violation of this section; and

253 (ii) knows that the disclosure described in Subsection ~~[(9)]~~ (10)(a)(i) is prohibited by
254 this section.

255 (b) If the individual described in Subsection ~~[(9)]~~ (10)(a) is an officer or employee of
256 the state or a county and is convicted of violating this section, the individual shall be dismissed
257 from office and be disqualified from holding public office in this state for a period of five years
258 thereafter.

259 (c) If the individual described in Subsection (10)(a) is an appraiser, the appraiser shall
260 forfeit any certification or license received under Title 61, Section 2b, Real Estate Appraiser
261 Licensing and Certification, for a period of five years.

262 (d) If the individual described in Subsection (10)(a) is an individual associated with an
263 appraiser who assists the appraiser in preparing appraisals, the individual shall be prohibited
264 from becoming licensed or certified under Title 61, Section 2b, Real Estate Appraiser
265 Licensing and Certification, for a period of five years.

S.B. 203 1st Sub. (Green) - Disclosure of Property Tax Information

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
