

**SALES INFORMATION DISCLOSURE FOR COMMERCIAL
REAL PROPERTY TRANSACTIONS**

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts and modifies provisions relating to sales of commercial real property.

Highlighted Provisions:

This bill:

- ▶ requires a buyer in a sale of commercial real property to provide information relating to the sale to the Multicounty Appraisal Trust;
- ▶ authorizes the Trust to share that information with county assessors, the State Tax Commission, and the Utah Association of Realtors;
- ▶ prohibits the disclosure of that information, except in limited circumstances; and
- ▶ provides that information provided to or shared by the Trust is not a record for purposes of the Government Records Access and Management Act.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-103, as last amended by Laws of Utah 2010, Chapter 366

ENACTS:



28 57-1-1.5, Utah Code Annotated 1953



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

31 Section 1. Section 57-1-1.5 is enacted to read:

32 **57-1-1.5. Information relating to a sale of commercial real property -- Delivery of**
33 **information to the Multicounty Appraisal Trust -- Sharing of real property sale**
34 **information -- Penalty for unauthorized disclosure.**

35 (1) As used in this section:

36 (a) "Appraisal trust" means the Multicounty Appraisal Trust created by interlocal
37 agreement by all 29 counties in the state.

38 (b) "Real property sale" means a sale of a fee simple interest in commercial real
39 property to a bona fide purchaser for value.

40 (c) "Settlement statement":

41 (i) means a document that:

42 (A) is customarily used in connection with the closing of a real property sale; and

43 (B) contains details concerning the real property sale, including the identity of the
44 buyer and seller, a description of the real property that is the subject of the real property sale,
45 the sales price, fees and costs associated with the real property sale, and the distribution of the
46 sale proceeds; and

47 (ii) includes the document provided by the United States Department of Housing and
48 Urban Development known as the HUD-1 form.

49 (2) (a) Unless otherwise directed in writing by the buyer or seller under a real property
50 sale, the title company or other person handling the closing of the real property sale shall,
51 within three business days after the closing of the sale, deliver to the appraisal trust the
52 following information relating to the real property sale:

53 (i) the seller's name;

54 (ii) the buyer's name;

55 (iii) the date of the real property sale;

56 (iv) a description of the real property that is the subject of the real property sale; and

57 (v) the sales price.

58 (b) A title company or other person satisfies the requirement of Subsection (2)(a) by

59 timely transmitting to the appraisal trust a copy of the completed settlement statement
60 applicable to the real property sale.

61 (3) (a) The appraisal trust may share information it receives under this section with:

62 (i) assessors of counties of the state;

63 (ii) the State Tax Commission; and

64 (iii) the Utah Association of Realtors.

65 (b) Except as provided in Subsection (3)(a), the appraisal trust may not disclose any
66 information it receives under this section.

67 (4) (a) Except as provided in Subsections (4)(b) and (c), a county assessor, the State
68 Tax Commission, and the Utah Association of Realtors may not disclose any information
69 received from the appraisal trust under this section.

70 (b) (i) A county assessor may disclose information received from the appraisal trust
71 under this section if:

72 (A) the assessor discloses the information to a property owner challenging the
73 assessor's assessment;

74 (B) the assessor used the information as a basis for the amount of the assessor's
75 challenged assessment of the property; and

76 (C) the property owner to whom the information is disclosed agrees not to disclose the
77 information.

78 (ii) Except as provided in Subsection (4)(c), a property owner who receives
79 information from a county assessor under Subsection (4)(b)(i) that the county assessor received
80 from the appraisal trust may not disclose that information.

81 (c) Subsections (4)(a) and (4)(b)(ii) do not prohibit the disclosure of information
82 received from the appraisal trust under this section if the information was also lawfully
83 received from an independent source.

84 (5) A person who discloses information received under this section in violation of
85 Subsection (3) or (4) is subject to a fine of not more than \$750.

86 Section 2. Section **63G-2-103** is amended to read:

87 **63G-2-103. Definitions.**

88 As used in this chapter:

89 (1) "Audit" means:

90 (a) a systematic examination of financial, management, program, and related records
91 for the purpose of determining the fair presentation of financial statements, adequacy of
92 internal controls, or compliance with laws and regulations; or

93 (b) a systematic examination of program procedures and operations for the purpose of
94 determining their effectiveness, economy, efficiency, and compliance with statutes and
95 regulations.

96 (2) "Chronological logs" mean the regular and customary summary records of law
97 enforcement agencies and other public safety agencies that show:

98 (a) the time and general nature of police, fire, and paramedic calls made to the agency;
99 and

100 (b) any arrests or jail bookings made by the agency.

101 (3) "Classification," "classify," and their derivative forms mean determining whether a
102 record series, record, or information within a record is public, private, controlled, protected, or
103 exempt from disclosure under Subsection 63G-2-201(3)(b).

104 (4) (a) "Computer program" means:

105 (i) a series of instructions or statements that permit the functioning of a computer
106 system in a manner designed to provide storage, retrieval, and manipulation of data from the
107 computer system; and

108 (ii) any associated documentation and source material that explain how to operate the
109 computer program.

110 (b) "Computer program" does not mean:

111 (i) the original data, including numbers, text, voice, graphics, and images;

112 (ii) analysis, compilation, and other manipulated forms of the original data produced by
113 use of the program; or

114 (iii) the mathematical or statistical formulas, excluding the underlying mathematical
115 algorithms contained in the program, that would be used if the manipulated forms of the
116 original data were to be produced manually.

117 (5) (a) "Contractor" means:

118 (i) any person who contracts with a governmental entity to provide goods or services
119 directly to a governmental entity; or

120 (ii) any private, nonprofit organization that receives funds from a governmental entity.

121 (b) "Contractor" does not mean a private provider.

122 (6) "Controlled record" means a record containing data on individuals that is controlled
123 as provided by Section 63G-2-304.

124 (7) "Designation," "designate," and their derivative forms mean indicating, based on a
125 governmental entity's familiarity with a record series or based on a governmental entity's
126 review of a reasonable sample of a record series, the primary classification that a majority of
127 records in a record series would be given if classified and the classification that other records
128 typically present in the record series would be given if classified.

129 (8) "Elected official" means each person elected to a state office, county office,
130 municipal office, school board or school district office, local district office, or special service
131 district office, but does not include judges.

132 (9) "Explosive" means a chemical compound, device, or mixture:

133 (a) commonly used or intended for the purpose of producing an explosion; and

134 (b) that contains oxidizing or combustive units or other ingredients in proportions,
135 quantities, or packing so that:

136 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the
137 compound or mixture may cause a sudden generation of highly heated gases; and

138 (ii) the resultant gaseous pressures are capable of:

139 (A) producing destructive effects on contiguous objects; or

140 (B) causing death or serious bodily injury.

141 (10) "Government audit agency" means any governmental entity that conducts an audit.

142 (11) (a) "Governmental entity" means:

143 (i) executive department agencies of the state, the offices of the governor, lieutenant
144 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,
145 the Board of Examiners, the National Guard, the Career Service Review Board, the State Board
146 of Education, the State Board of Regents, and the State Archives;

147 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal
148 Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative
149 committees, except any political party, group, caucus, or rules or sifting committee of the
150 Legislature;

151 (iii) courts, the Judicial Council, the Office of the Court Administrator, and similar

152 administrative units in the judicial branch;

153 (iv) any state-funded institution of higher education or public education; or

154 (v) any political subdivision of the state, but, if a political subdivision has adopted an
155 ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this
156 chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or
157 as specified in any other section of this chapter that specifically refers to political subdivisions.

158 (b) "Governmental entity" also means every office, agency, board, bureau, committee,
159 department, advisory board, or commission of an entity listed in Subsection (11)(a) that is
160 funded or established by the government to carry out the public's business.

161 (12) "Gross compensation" means every form of remuneration payable for a given
162 period to an individual for services provided including salaries, commissions, vacation pay,
163 severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any
164 similar benefit received from the individual's employer.

165 (13) "Individual" means a human being.

166 (14) (a) "Initial contact report" means an initial written or recorded report, however
167 titled, prepared by peace officers engaged in public patrol or response duties describing official
168 actions initially taken in response to either a public complaint about or the discovery of an
169 apparent violation of law, which report may describe:

170 (i) the date, time, location, and nature of the complaint, the incident, or offense;

171 (ii) names of victims;

172 (iii) the nature or general scope of the agency's initial actions taken in response to the
173 incident;

174 (iv) the general nature of any injuries or estimate of damages sustained in the incident;

175 (v) the name, address, and other identifying information about any person arrested or
176 charged in connection with the incident; or

177 (vi) the identity of the public safety personnel, except undercover personnel, or
178 prosecuting attorney involved in responding to the initial incident.

179 (b) Initial contact reports do not include follow-up or investigative reports prepared
180 after the initial contact report. However, if the information specified in Subsection (14)(a)
181 appears in follow-up or investigative reports, it may only be treated confidentially if it is
182 private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

183 (15) "Legislative body" means the Legislature.

184 (16) "Notice of compliance" means a statement confirming that a governmental entity
185 has complied with a records committee order.

186 (17) "Person" means:

187 (a) an individual;

188 (b) a nonprofit or profit corporation;

189 (c) a partnership;

190 (d) a sole proprietorship;

191 (e) other type of business organization; or

192 (f) any combination acting in concert with one another.

193 (18) "Private provider" means any person who contracts with a governmental entity to
194 provide services directly to the public.

195 (19) "Private record" means a record containing data on individuals that is private as
196 provided by Section 63G-2-302.

197 (20) "Protected record" means a record that is classified protected as provided by
198 Section 63G-2-305.

199 (21) "Public record" means a record that is not private, controlled, or protected and that
200 is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

201 (22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film,
202 card, tape, recording, electronic data, or other documentary material regardless of physical form
203 or characteristics:

204 (i) that is prepared, owned, received, or retained by a governmental entity or political
205 subdivision; and

206 (ii) where all of the information in the original is reproducible by photocopy or other
207 mechanical or electronic means.

208 (b) "Record" does not mean:

209 (i) a personal note or personal communication prepared or received by an employee or
210 officer of a governmental entity in the employee's or officer's private capacity;

211 (ii) a temporary draft or similar material prepared for the originator's personal use or
212 prepared by the originator for the personal use of an individual for whom the originator is
213 working;

- 214 (iii) material that is legally owned by an individual in the individual's private capacity;
- 215 (iv) material to which access is limited by the laws of copyright or patent unless the
- 216 copyright or patent is owned by a governmental entity or political subdivision;
- 217 (v) proprietary software;
- 218 (vi) junk mail or a commercial publication received by a governmental entity or an
- 219 official or employee of a governmental entity;
- 220 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections
- 221 of a library open to the public;
- 222 (viii) material that is cataloged, indexed, or inventoried and contained in the collections
- 223 of a library open to the public, regardless of physical form or characteristics of the material;
- 224 (ix) a daily calendar or other personal note prepared by the originator for the
- 225 originator's personal use or for the personal use of an individual for whom the originator is
- 226 working;
- 227 (x) a computer program that is developed or purchased by or for any governmental
- 228 entity for its own use;
- 229 (xi) a note or internal memorandum prepared as part of the deliberative process by:
- 230 (A) a member of the judiciary;
- 231 (B) an administrative law judge;
- 232 (C) a member of the Board of Pardons and Parole; or
- 233 (D) a member of any other body charged by law with performing a quasi-judicial
- 234 function;
- 235 (xii) a telephone number or similar code used to access a mobile communication
- 236 device that is used by an employee or officer of a governmental entity, provided that the
- 237 employee or officer of the governmental entity has designated at least one business telephone
- 238 number that is a public record as provided in Section 63G-2-301;
- 239 (xiii) information provided by the Public Employees' Benefit and Insurance Program,
- 240 created in Section 49-20-103, to a county to enable the county to calculate the amount to be
- 241 paid to a health care provider under Subsection 17-50-319(2)(e)(ii); ~~or~~
- 242 (xiv) information that an owner of unimproved property provides to a local entity as
- 243 provided in Section 11-42-205[-]; or
- 244 (xv) any document or information:

245 (A) provided to the Multicounty Appraisal Trust under Section 57-1-1.5; or

246 (B) that the Multicounty Appraisal Trust shares under that section.

247 (23) "Record series" means a group of records that may be treated as a unit for
248 purposes of designation, description, management, or disposition.

249 (24) "Records committee" means the State Records Committee created in Section
250 63G-2-501.

251 (25) "Records officer" means the individual appointed by the chief administrative
252 officer of each governmental entity, or the political subdivision to work with state archives in
253 the care, maintenance, scheduling, designation, classification, disposal, and preservation of
254 records.

255 (26) "Schedule," "scheduling," and their derivative forms mean the process of
256 specifying the length of time each record series should be retained by a governmental entity for
257 administrative, legal, fiscal, or historical purposes and when each record series should be
258 transferred to the state archives or destroyed.

259 (27) "Sponsored research" means research, training, and other sponsored activities as
260 defined by the federal Executive Office of the President, Office of Management and Budget:

261 (a) conducted:

262 (i) by an institution within the state system of higher education defined in Section
263 53B-1-102; and

264 (ii) through an office responsible for sponsored projects or programs; and

265 (b) funded or otherwise supported by an external:

266 (i) person that is not created or controlled by the institution within the state system of
267 higher education; or

268 (ii) federal, state, or local governmental entity.

269 (28) "State archives" means the Division of Archives and Records Service created in
270 Section 63A-12-101.

271 (29) "State archivist" means the director of the state archives.

272 (30) "Summary data" means statistical records and compilations that contain data
273 derived from private, controlled, or protected information but that do not disclose private,
274 controlled, or protected information.

Legislative Review Note
as of 1-5-11 2:34 PM

Office of Legislative Research and General Counsel