

**PROPERTY TAX AND APPRAISER AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gage Froerer**

Senate Sponsor: Howard A. Stephenson

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**LONG TITLE**

**Committee Note:**

The Revenue and Taxation Interim Committee recommended this bill.

**General Description:**

This bill makes changes related to property appraiser licensing requirements and property tax appeals.

**Highlighted Provisions:**

This bill:

- ▶ establishes requirements related to county property tax appeal hearing officers;
- ▶ addresses the consideration and weighing of evidence in a property tax appeal;
- ▶ defines terms;
- ▶ allows a person to present evidence or provide property tax information on behalf of another person in a property tax appeal under certain circumstances;
- ▶ addresses contingent fees; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:



28 59-2-1001, as last amended by Laws of Utah 1993, Chapter 227

29 59-2-1004, as last amended by Laws of Utah 2012, Chapter 85

30 59-2-1006, as last amended by Laws of Utah 1992, Chapter 288

31 61-2g-406, as renumbered and amended by Laws of Utah 2011, Chapter 289

32 ENACTS:

33 59-2-1017, Utah Code Annotated 1953



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

36 Section 1. Section 59-2-1001 is amended to read:

37 **59-2-1001. County board of equalization -- Public hearings -- Hearing officers --**  
38 **Notice of decision -- Rulemaking.**

39 (1) The county legislative body is the county board of equalization and the county  
40 auditor is the clerk of the county board of equalization.

41 (2) The county board of equalization shall adjust and equalize the valuation and  
42 assessment of the real and personal property within the county, subject to regulation and  
43 control by the commission as prescribed by law. The county board of equalization shall meet  
44 and hold public hearings each year to examine the assessment roll and equalize the assessment  
45 of property in the county, including the assessment for general taxes of all taxing entities  
46 located in the county.

47 ~~[(3) For the purpose of this chapter, the county board of equalization may appoint~~  
48 ~~hearing officers for the purpose of examining applicants and witnesses. The hearing officers]~~

49 (3) (a) A county board of equalization may:

50 (i) appoint an appraiser licensed in accordance with Title 61, Chapter 2g, Real Estate  
51 Appraiser Licensing and Certification Act, as a hearing officer for the purpose of examining an  
52 applicant or a witness; or

53 (ii) appoint an individual who is not licensed in accordance with Title 61, Chapter 2g,  
54 Real Estate Appraiser Licensing and Certification Act, as a hearing officer for the purpose of  
55 examining an applicant or witness if the county board of equalization determines that the  
56 individual has competency relevant to the work of a hearing officer, including competency in:

57 (A) real estate;

58 (B) finance;

59 (C) economics;

60 (D) public administration; or

61 (E) law.

62 (b) Beginning on January 1, 2014, a county board of equalization may only appoint an  
 63 individual as a hearing officer for the purposes of examining an applicant or witness if the  
 64 individual has completed a course the commission:

65 (i) develops in accordance with Subsection (3)(c)(i); or

66 (ii) approves in accordance with Subsection (3)(c)(ii).

67 (c) (i) On or before January 1, 2014, the commission shall develop a hearing officer  
 68 training course that includes training in property valuation and administrative law.

69 (ii) In addition to the course the commission develops in accordance with Subsection  
 70 (3)(c)(i), the commission may approve a hearing officer training course provided by a county or  
 71 a private entity if the course includes training in property valuation and administrative law.

72 (d) A hearing officer shall transmit [their] the hearing officer's findings to the board,  
 73 where a quorum shall be required for final action upon any application for exemption, deferral,  
 74 reduction, or abatement.

75 (4) The clerk of the board of equalization shall notify the taxpayer, in writing, of any  
 76 decision of the board. The decision shall include any adjustment in the amount of taxes due on  
 77 the property resulting from a change in the taxable value and shall be considered the corrected  
 78 tax notice.

79 (5) During the session of the board, the assessor or any deputy whose testimony is  
 80 needed shall be present, and may make any statement or introduce and examine witnesses on  
 81 questions before the board.

82 (6) The county board of equalization may make and enforce any rule which is  
 83 consistent with statute or commission rule, and necessary for the government of the board, the  
 84 preservation of order, and the transaction of business.

85 Section 2. Section **59-2-1004** is amended to read:

86 **59-2-1004. Appeal to county board of equalization -- Real property -- Time**  
 87 **period for appeal -- Decision of board -- Extensions approved by commission -- Appeal to**  
 88 **commission.**

89 (1) (a) A taxpayer dissatisfied with the valuation or the equalization of the taxpayer's

90 real property may make an application to appeal by:

91 (i) filing the application with the county board of equalization within the time period  
92 described in Subsection (2); or

93 (ii) making an application by telephone or other electronic means within the time  
94 period described in Subsection (2) if the county legislative body passes a resolution under  
95 Subsection (5) authorizing applications to be made by telephone or other electronic means.

96 (b) The contents of the application shall be prescribed by rule of the county board of  
97 equalization.

98 (2) (a) Except as provided in Subsection (2)(b), for purposes of Subsection (1), a  
99 taxpayer shall make an application to appeal the valuation or the equalization of the taxpayer's  
100 real property on or before the later of:

101 (i) September 15 of the current calendar year; or

102 (ii) the last day of a 45-day period beginning on the day on which the county auditor  
103 mails the notice under Section 59-2-919.1.

104 (b) Notwithstanding Subsection (2)(a), in accordance with Title 63G, Chapter 3, Utah  
105 Administrative Rulemaking Act, the commission shall make rules providing for circumstances  
106 under which the county board of equalization is required to accept an application to appeal that  
107 is filed after the time period prescribed in Subsection (2)(a).

108 (3) The owner shall include in the application under Subsection (1)(a)(i) the owner's  
109 estimate of the fair market value of the property and any evidence which may indicate that the  
110 assessed valuation of the owner's property is improperly equalized with the assessed valuation  
111 of comparable properties.

112 (4) In reviewing evidence submitted to a county board of equalization by or on behalf  
113 of an owner or a county assessor, the county board of equalization shall consider and weigh:

114 (a) the accuracy, reliability, and comparability of the evidence presented by the owner  
115 or county assessor;

116 (b) if submitted, the sales price of relevant property that was under contract for sale as  
117 of the lien date but sold after the lien date;

118 (c) if submitted, the sales offering price of property that was offered for sale as of the  
119 lien date but did not sell, including considering and weighing the amount of time for which and  
120 manner in which the property was offered for sale; and

121 (d) if submitted, other evidence that is relevant to determining the fair market value of  
122 the property.

123 [~~(4)~~] (5) (a) The county board of equalization shall meet and hold public hearings as  
124 prescribed in Section 59-2-1001.

125 (b) The county board of equalization shall make a decision on each appeal filed in  
126 accordance with this section within a 60-day period after the day on which the application is  
127 made.

128 (c) The commission may approve the extension of a time period provided for in  
129 Subsection [~~(4)~~] (5)(b) for a county board of equalization to make a decision on an appeal.

130 (d) The decision of the board shall contain a determination of the valuation of the  
131 property based on fair market value, and a conclusion that the fair market value is properly  
132 equalized with the assessed value of comparable properties.

133 (e) If no evidence is presented before the county board of equalization, it will be  
134 presumed that the equalization issue has been met.

135 (f) (i) If the fair market value of the property that is the subject of the appeal deviates  
136 plus or minus 5% from the assessed value of comparable properties, the valuation of the  
137 appealed property shall be adjusted to reflect a value equalized with the assessed value of  
138 comparable properties.

139 (ii) Subject to Sections 59-2-301.1, 59-2-301.2, 59-2-301.3, and 59-2-301.4, equalized  
140 value established under Subsection [~~(4)~~] (5)(f)(i) shall be the assessed value for property tax  
141 purposes until the county assessor is able to evaluate and equalize the assessed value of all  
142 comparable properties to bring them all into conformity with full fair market value.

143 [~~(5)~~] (6) If any taxpayer is dissatisfied with the decision of the county board of  
144 equalization, the taxpayer may file an appeal with the commission as prescribed in Section  
145 59-2-1006.

146 [~~(6)~~] (7) A county legislative body may pass a resolution authorizing taxpayers owing  
147 taxes on property assessed by that county to file property tax appeals applications under this  
148 section by telephone or other electronic means.

149 Section 3. Section **59-2-1006** is amended to read:

150 **59-2-1006. Appeal to commission -- Duties of auditor -- Decision by commission.**

151 (1) Any person dissatisfied with the decision of the county board of equalization

152 concerning the assessment and equalization of any property, or the determination of any  
153 exemption in which the person has an interest, may appeal that decision to the commission by  
154 filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30  
155 days after the final action of the county board.

156 (2) The auditor shall:

157 (a) file one notice with the commission;

158 (b) certify and transmit to the commission:

159 (i) the minutes of the proceedings of the county board of equalization for the matter

160 appealed;

161 (ii) all documentary evidence received in that proceeding; and

162 (iii) a transcript of any testimony taken at that proceeding that was preserved; and

163 (c) if the appeal is from a hearing where an exemption was granted or denied, certify

164 and transmit to the commission the written decision of the board of equalization as required by

165 Section 59-2-1102.

166 (3) In reviewing the county board's decision, the commission may:

167 (a) admit additional evidence;

168 (b) issue orders that it considers to be just and proper; and

169 (c) make any correction or change in the assessment or order of the county board of

170 equalization.

171 (4) In reviewing evidence submitted to the commission by or on behalf of an owner or

172 a county, the commission shall consider and weigh:

173 (a) the accuracy, reliability, and comparability of the evidence presented by the owner

174 or county;

175 (b) if submitted, the sales price of relevant property that was under contract for sale as

176 of the lien date but sold after the lien date;

177 (c) if submitted, the sales offering price of property that was offered for sale as of the

178 lien date but did not sell, including considering and weighing the amount of time for which and

179 manner in which the property was offered for sale; and

180 (d) if submitted, other evidence that is relevant to determining the fair market value of

181 the property.

182 [~~4~~] (5) In reviewing the county board's decision, the commission shall adjust property

183 valuations to reflect a value equalized with the assessed value of other comparable properties  
 184 if:

185 (a) the issue of equalization of property values is raised; and

186 (b) the commission determines that the property that is the subject of the appeal  
 187 deviates in value plus or minus 5% from the assessed value of comparable properties.

188 ~~[(5)]~~ (6) The commission shall decide all appeals taken pursuant to this section not  
 189 later than March 1 of the following year for real property and within 90 days for personal  
 190 property, and shall report its decision, order, or assessment to the county auditor, who shall  
 191 make all changes necessary to comply with the decision, order, or assessment.

192 Section 4. Section **59-2-1017** is enacted to read:

193 **59-2-1017. Property tax appeal assistance.**

194 (1) As used in this section:

195 (a) "Licensed appraiser" means an appraiser licensed in accordance with Title 61,  
 196 Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

197 (b) "Opinion of value" means an estimate of fair market value that is:

198 (i) made by a licensed appraiser; and

199 (ii) complies with the Uniform Standards of Professional Appraisal Practice  
 200 promulgated by the Appraisal Standards Board as described in 12 U.S.C. Sec. 3339.

201 (c) "Present evidence" means to present information:

202 (i) to a county board of equalization or the commission; and

203 (ii) related to a property tax appeal made in accordance with this part.

204 (d) "Price estimate" means an estimate:

205 (i) of the price that property would sell for; and

206 (ii) that is not an opinion of value.

207 (e) "Provide property tax information" means to provide information related to a  
 208 property tax appeal made in accordance with this part to another person.

209 (2) Subject to the other provisions of this section, a person may:

210 (a) present evidence in a property tax appeal on behalf of another person after  
 211 obtaining permission from that other person; or

212 (b) provide property tax information to another person.

213 (3) For purposes of Subsection (2):

214 (a) only a person who is a licensed appraiser may present or provide an opinion of  
215 value; and

216 (b) only a person who is not a licensed appraiser may present or provide a price  
217 estimate.

218 (4) (a) A licensed appraiser who presents evidence or provides property tax  
219 information in accordance with Subsection (2) is subject to Sections 61-2g-304, 61-2g-403,  
220 61-2g-406, and 62-2g-407.

221 (b) A person who is not a licensed appraiser, who presents evidence or provides  
222 property tax information in accordance with Subsection (2) and who charges a contingent fee,  
223 is subject to Section 61-2g-406.

224 (5) A county board of equalization or the commission may evaluate the reliability or  
225 accuracy of evidence presented or property tax information provided in accordance with  
226 Subsection (2).

227 Section 5. Section **61-2g-406** is amended to read:

228 **61-2g-406. Contingent fees.**

229 (1) A person licensed or certified under this chapter who enters into an agreement to  
230 perform an appraisal may not accept a contingent fee.

231 (2) A person who provides a price estimate in accordance with Section 59-2-1017 or a  
232 person who is licensed or certified under this chapter who enters into an agreement to provide  
233 consultation services may be paid a fixed fee or a contingent fee.

234 (3) (a) If a person who provides a price estimate in accordance with Section 59-2-1017  
235 or a person who is licensed or certified under this chapter enters into an agreement to perform  
236 consultation services for a contingent fee, this fact shall be clearly stated in each oral statement.

237 (b) In addition to the requirements of Subsection (3)(a), if a person who provides a  
238 price estimate in accordance with Section 59-2-1017 or a person who is licensed or certified  
239 under this chapter prepares a written consultation report or summary, letter of transmittal, or  
240 certification statement for a contingent fee, the person shall clearly state in the report,  
241 summary, letter of transmittal, or certification statement that the report is prepared under a  
242 contingent fee arrangement.

**Legislative Review Note**  
as of 12-7-12 10:52 AM

**Office of Legislative Research and General Counsel**