

Representative Gage Froerer proposes the following substitute bill:

PROPERTY TAX AND APPRAISER AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: Howard A. Stephenson

LONG TITLE

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;
- ▶ exempts certain persons presenting evidence or providing property tax information from appraiser licensing provisions in certain circumstances;
- ▶ addresses contingent fees;
- ▶ prohibits the use of certain terms by a person providing a price estimate or property tax information for a property tax appeal; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **59-2-1001**, as last amended by Laws of Utah 1993, Chapter 227

31 **59-2-1004**, as last amended by Laws of Utah 2012, Chapter 85

32 **59-2-1006**, as last amended by Laws of Utah 1992, Chapter 288

33 **61-2g-301**, as last amended by Laws of Utah 2012, Chapters 166 and 384

34 **61-2g-406**, as renumbered and amended by Laws of Utah 2011, Chapter 289

35 **61-2g-407**, as renumbered and amended by Laws of Utah 2011, Chapter 289

36 ENACTS:

37 **59-2-1017**, Utah Code Annotated 1953



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

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

41 **59-2-1001. County board of equalization -- Public hearings -- Hearing officers --**
42 **Notice of decision -- Rulemaking.**

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

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

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

53 (3) (a) Except as provided in Subsection (3)(d), a county board of equalization may:

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

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

- 61 (A) real estate;
62 (B) finance;
63 (C) economics;
64 (D) public administration; or
65 (E) law.

66 (b) Except as provided in Subsection (3)(d), beginning on January 1, 2014, a county
67 board of equalization may only appoint an individual as a hearing officer for the purposes of
68 examining an applicant or witness if the individual has completed a course the commission:

- 69 (i) develops in accordance with Subsection (3)(c)(i); or
70 (ii) approves in accordance with Subsection (3)(c)(ii).

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

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

76 (d) A county board of equalization may not appoint a person employed by an assessor's
77 office as a hearing officer.

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

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

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

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

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

92 **59-2-1004. Appeal to county board of equalization -- Real property -- Time**
93 **period for appeal -- Decision of board -- Extensions approved by commission -- Appeal to**
94 **commission.**

95 (1) (a) A taxpayer dissatisfied with the valuation or the equalization of the taxpayer's
96 real property may make an application to appeal by:

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

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

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

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

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

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

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

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

118 (4) In reviewing evidence submitted to a county board of equalization by or on behalf

119 of an owner or a county assessor, the county board of equalization shall consider and weigh:

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

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

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

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

129 [~~(4)~~] (5) (a) The county board of equalization shall meet and hold public hearings as
130 prescribed in Section 59-2-1001.

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

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

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

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

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

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

149 [~~(5)~~] (6) If any taxpayer is dissatisfied with the decision of the county board of

150 equalization, the taxpayer may file an appeal with the commission as prescribed in Section
151 59-2-1006.

152 ~~[(6)]~~ (7) A county legislative body may pass a resolution authorizing taxpayers owing
153 taxes on property assessed by that county to file property tax appeals applications under this
154 section by telephone or other electronic means.

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

156 **59-2-1006. Appeal to commission -- Duties of auditor -- Decision by commission.**

157 (1) Any person dissatisfied with the decision of the county board of equalization
158 concerning the assessment and equalization of any property, or the determination of any
159 exemption in which the person has an interest, may appeal that decision to the commission by
160 filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30
161 days after the final action of the county board.

162 (2) The auditor shall:

163 (a) file one notice with the commission;

164 (b) certify and transmit to the commission:

165 (i) the minutes of the proceedings of the county board of equalization for the matter
166 appealed;

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

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

169 (c) if the appeal is from a hearing where an exemption was granted or denied, certify
170 and transmit to the commission the written decision of the board of equalization as required by
171 Section 59-2-1102.

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

173 (a) admit additional evidence;

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

175 (c) make any correction or change in the assessment or order of the county board of
176 equalization.

177 (4) In reviewing evidence submitted to the commission by or on behalf of an owner or
178 a county, the commission shall consider and weigh:

179 (a) the accuracy, reliability, and comparability of the evidence presented by the owner
180 or county;

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

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

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

188 [~~4~~] (5) In reviewing the county board's decision, the commission shall adjust property
 189 valuations to reflect a value equalized with the assessed value of other comparable properties
 190 if:

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

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

194 [~~5~~] (6) The commission shall decide all appeals taken pursuant to this section not
 195 later than March 1 of the following year for real property and within 90 days for personal
 196 property, and shall report its decision, order, or assessment to the county auditor, who shall
 197 make all changes necessary to comply with the decision, order, or assessment.

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

199 **59-2-1017. Property tax appeal assistance.**

200 (1) As used in this section:

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

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

204 (i) made by a licensed appraiser; and

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

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

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

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

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

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

212 (ii) that is not an opinion of value.
213 (e) "Provide property tax information" means to provide information related to a
214 property tax appeal made in accordance with this part to another person.
215 (2) Subject to the other provisions of this section, a person may:
216 (a) present evidence in a property tax appeal on behalf of another person after
217 obtaining permission from that other person; or
218 (b) provide property tax information to another person.
219 (3) For purposes of Subsection (2):
220 (a) only a person who is a licensed appraiser may present or provide an opinion of
221 value; and
222 (b) only a person who is not a licensed appraiser may present or provide a price
223 estimate.
224 (4) (a) A licensed appraiser who presents evidence or provides property tax
225 information in accordance with Subsection (2) is subject to Sections 61-2g-304, 61-2g-403,
226 61-2g-406, and 62-2g-407.
227 (b) A person who is not a licensed appraiser, who presents evidence or provides
228 property tax information in accordance with Subsection (2):
229 (i) is subject to Section 61-2g-407; and
230 (ii) if the person charges a contingent fee, is subject to Section 61-2g-406.
231 (5) A county board of equalization or the commission may evaluate the reliability or
232 accuracy of evidence presented or property tax information provided in accordance with
233 Subsection (2).
234 Section 5. Section **61-2g-301** is amended to read:
235 **61-2g-301. License or certification required.**
236 (1) Except as provided in Subsection (2), it is unlawful for a person to prepare, for
237 valuable consideration, an appraisal, an appraisal report, a certified appraisal report, or perform
238 a consultation service relating to real estate or real property in this state without first being
239 licensed or certified in accordance with this chapter.
240 (2) This section does not apply to:
241 (a) a principal broker, associate broker, or sales agent as defined by Section 61-2f-102
242 licensed by this state who, in the ordinary course of the broker's or sales agent's business, gives

243 an opinion:

244 (i) regarding the value of real estate;

245 (ii) to a potential seller or third-party recommending a listing price of real estate; or

246 (iii) to a potential buyer or third-party recommending a purchase price of real estate;

247 (b) an employee of a company who states an opinion of value or prepares a report

248 containing value conclusions relating to real estate or real property solely for the company's

249 use;

250 (c) an official or employee of a government agency while acting solely within the scope

251 of the official's or employee's duties, unless otherwise required by Utah law;

252 (d) an auditor or accountant who states an opinion of value or prepares a report

253 containing value conclusions relating to real estate or real property while performing an audit;

254 (e) an individual, except an individual who is required to be licensed or certified under

255 this chapter, who states an opinion about the value of property in which the person has an

256 ownership interest;

257 (f) an individual who states an opinion of value if no consideration is paid or agreed to

258 be paid for the opinion and no other party is reasonably expected to rely on the individual's

259 appraisal expertise;

260 (g) an individual, such as a researcher or a secretary, who does not render significant

261 professional assistance, as defined by the board, in arriving at a real estate appraisal analysis,

262 opinion, or conclusion; [or]

263 (h) an attorney authorized to practice law in any state who, in the course of the

264 attorney's practice or tax appeal services, uses an appraisal report governed by this chapter or

265 who states an opinion of the value of real estate[-]; or

266 (i) a person who is not an appraiser who presents or provides a price estimate,

267 evidence, or property tax information solely for a property tax appeal in accordance with

268 Section 59-2-1017.

269 (3) An opinion of value or report containing value conclusions exempt under

270 Subsection (2) may not be referred to as an appraisal.

271 (4) Except as provided in Subsection (2), to prepare or cause to be prepared in this state

272 an appraisal, an appraisal report, or a certified appraisal report an individual shall:

273 (a) apply in writing for licensure or certification as provided in this chapter in the form

274 as the division may prescribe; and

275 (b) become licensed or certified under this chapter.

276 Section 6. Section **61-2g-406** is amended to read:

277 **61-2g-406. Contingent fees.**

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

280 (2) A person who presents or provides a price estimate or property tax information in
281 accordance with Section 59-2-1017 or a person who is licensed or certified under this chapter
282 who enters into an agreement to provide consultation services may be paid a fixed fee or a
283 contingent fee.

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

288 (b) In addition to the requirements of Subsection (3)(a), if a person who presents or
289 provides a price estimate or property tax information in accordance with Section 59-2-1017 or
290 a person who is licensed or certified under this chapter prepares a written consultation report or
291 summary, letter of transmittal, or certification statement for a contingent fee, the person shall
292 clearly state in the price estimate property tax information, report, summary, letter of
293 transmittal, or certification statement that the report is prepared under a contingent fee
294 arrangement.

295 Section 7. Section **61-2g-407** is amended to read:

296 **61-2g-407. Consultation reports -- Restrictions on use of terms.**

297 A person who presents or provides a price estimate or property tax information in
298 accordance with Section 59-2-1017 or prepares a written or oral consultation report may not
299 refer to the price estimate, property tax information, or consultation report as an appraisal, an
300 appraisal report, or in any manner that may be interpreted as referring to an appraisal or an
301 appraisal report.