

HB0054S01 compared with HB0054

~~{deleted text}~~ shows text that was in HB0054 but was deleted in HB0054S01.

inserted text shows text that was not in HB0054 but was inserted into HB0054S01.

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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

~~{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;

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- ▶ 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

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

ENACTS:

59-2-1017, Utah Code Annotated 1953

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

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

59-2-1001. County board of equalization -- Public hearings -- Hearing officers --

Notice of decision -- Rulemaking.

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

(2) The county board of equalization shall adjust and equalize the valuation and assessment of the real and personal property within the county, subject to regulation and control by the commission as prescribed by law. The county board of equalization shall meet and hold public hearings each year to examine the assessment roll and equalize the assessment

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of property in the county, including the assessment for general taxes of all taxing entities located in the county.

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

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

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

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

(A) real estate;

(B) finance;

(C) economics;

(D) public administration; or

(E) law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) the last day of a 45-day period beginning on the day on which the county auditor

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mails the notice under Section 59-2-919.1.

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

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

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

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

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

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

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

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

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

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

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

(e) If no evidence is presented before the county board of equalization, it will be

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presumed that the equalization issue has been met.

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

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

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

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

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

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

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

(2) The auditor shall:

(a) file one notice with the commission;

(b) certify and transmit to the commission:

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

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

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

(c) if the appeal is from a hearing where an exemption was granted or denied, certify and transmit to the commission the written decision of the board of equalization as required by

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Section 59-2-1102.

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

- (a) admit additional evidence;
- (b) issue orders that it considers to be just and proper; and
- (c) make any correction or change in the assessment or order of the county board of equalization.

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

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

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

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

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

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

- (a) the issue of equalization of property values is raised; and
- (b) the commission determines that the property that is the subject of the appeal deviates in value plus or minus 5% from the assessed value of comparable properties.

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

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

59-2-1017. Property tax appeal assistance.

(1) As used in this section:

(a) "Licensed appraiser" means an appraiser licensed in accordance with Title 61,

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Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

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

(i) made by a licensed appraiser; and

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

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

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

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

(d) "Price estimate" means an estimate:

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

(ii) that is not an opinion of value.

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

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

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

(b) provide property tax information to another person.

(3) For purposes of Subsection (2):

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

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

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

(b) A person who is not a licensed appraiser, who presents evidence or provides property tax information in accordance with Subsection (2):

(i) is subject to Section 61-2g-407; and ~~who~~

(ii) if the person charges a contingent fee, is subject to Section 61-2g-406.

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

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Subsection (2).

Section 5. Section 61-2g-301 is amended to read:

61-2g-301. License or certification required.

(1) Except as provided in Subsection (2), it is unlawful for a person to prepare, for valuable consideration, an appraisal, an appraisal report, a certified appraisal report, or perform a consultation service relating to real estate or real property in this state without first being licensed or certified in accordance with this chapter.

(2) This section does not apply to:

(a) a principal broker, associate broker, or sales agent as defined by Section 61-2f-102 licensed by this state who, in the ordinary course of the broker's or sales agent's business, gives an opinion:

(i) regarding the value of real estate;

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

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

(b) an employee of a company who states an opinion of value or prepares a report containing value conclusions relating to real estate or real property solely for the company's use;

(c) an official or employee of a government agency while acting solely within the scope of the official's or employee's duties, unless otherwise required by Utah law;

(d) an auditor or accountant who states an opinion of value or prepares a report containing value conclusions relating to real estate or real property while performing an audit;

(e) an individual, except an individual who is required to be licensed or certified under this chapter, who states an opinion about the value of property in which the person has an ownership interest;

(f) an individual who states an opinion of value if no consideration is paid or agreed to be paid for the opinion and no other party is reasonably expected to rely on the individual's appraisal expertise;

(g) an individual, such as a researcher or a secretary, who does not render significant professional assistance, as defined by the board, in arriving at a real estate appraisal analysis, opinion, or conclusion; ~~or~~

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

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attorney's practice or tax appeal services, uses an appraisal report governed by this chapter or who states an opinion of the value of real estate~~[-]; or~~

(i) a person who is not an appraiser who presents or provides a price estimate, evidence, or property tax information solely for a property tax appeal in accordance with Section 59-2-1017.

(3) An opinion of value or report containing value conclusions exempt under Subsection (2) may not be referred to as an appraisal.

(4) Except as provided in Subsection (2), to prepare or cause to be prepared in this state an appraisal, an appraisal report, or a certified appraisal report an individual shall:

(a) apply in writing for licensure or certification as provided in this chapter in the form as the division may prescribe; and

(b) become licensed or certified under this chapter.

Section ~~5~~6. Section **61-2g-406** is amended to read:

61-2g-406. Contingent fees.

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

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

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

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

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Legislative Review Note

~~as of 12-7-12 10:52 AM~~

~~Office of Legislative Research and General Counsel;~~ Section 7. Section 61-2g-407 is amended to read:

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

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