

1                   **PROPERTY TAX APPEALS PROCESS AMENDMENTS**

2                                   2022 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Chief Sponsor: Ann Millner**

5                                   House Sponsor: Val L. Peterson

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7 **LONG TITLE**

8 **General Description:**

9                   This bill modifies provisions related to appeals to a county board of equalization.

10 **Highlighted Provisions:**

11                   This bill:

- 12                   ▶ in an appeal to a county board of equalization, requires the parties to disclose
- 13 certain evidence before the public hearing on the appeal;
- 14                   ▶ allows a party to provide a written response to any previously undisclosed evidence
- 15 that another party presents at the public hearing;
- 16                   ▶ authorizes a county board of equalization to create rules related to the disclosures
- 17 described in this bill, provided the rules are no less stringent than the provisions of
- 18 this bill; and
- 19                   ▶ makes technical and conforming changes.

20 **Money Appropriated in this Bill:**

21                   None

22 **Other Special Clauses:**

23                   None

24 **Utah Code Sections Affected:**

25 AMENDS:

26                   **59-2-1004**, as last amended by Laws of Utah 2021, Chapter 377

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

29                   Section 1. Section **59-2-1004** is amended to read:

30           **59-2-1004. Appeal to county board of equalization -- Real property -- Time**  
31 **period for appeal -- Public hearing requirements -- Decision of board -- Extensions**  
32 **approved by commission -- Appeal to commission.**

33           (1) As used in this section:

34           (a) "Final assessed value" means:

35           (i) for real property for which the taxpayer appealed the valuation or equalization to the  
36 county board of equalization in accordance with this section, the value given to the real  
37 property by the county board of equalization, including a value based on a stipulation of the  
38 parties;

39           (ii) for real property for which the taxpayer or a county assessor appealed the valuation  
40 or equalization to the commission in accordance with Section 59-2-1006, the value given to the  
41 real property by:

42           (A) the commission, if the commission has issued a decision in the appeal or the  
43 parties have entered a stipulation; or

44           (B) a county board of equalization, if the commission has not yet issued a decision in  
45 the appeal and the parties have not entered a stipulation; or

46           (iii) for real property for which the taxpayer or a county assessor sought judicial review  
47 of the valuation or equalization in accordance with Section 59-1-602 or Title 63G, Chapter 4,  
48 Part 4, Judicial Review, the value given the real property by the commission.

49           (b) "Inflation adjusted value" means the value of the real property that is the subject of  
50 the appeal as calculated by changing the final assessed value for the previous taxable year for  
51 the real property by the median property value change.

52           (c) "Median property value change" means the midpoint of the property value changes  
53 for all real property that is:

54           (i) of the same class of real property as the qualified real property; and

55           (ii) located within the same county and within the same market area as the qualified  
56 real property.

57           (d) "Property value change" means the percentage change in the fair market value of

58 real property on or after January 1 of the previous year and before January 1 of the current year.

59 (e) "Qualified real property" means real property:

60 (i) for which:

61 (A) the taxpayer or a county assessor appealed the valuation or equalization for the  
62 previous taxable year to the county board of equalization in accordance with this section or the  
63 commission in accordance with Section [59-2-1006](#);

64 (B) the appeal described in Subsection (1)(e)(i)(A), resulted in a final assessed value  
65 that was lower than the assessed value; and

66 (C) the assessed value for the current taxable year is higher than the inflation adjusted  
67 value; and

68 (ii) that, on or after January 1 of the previous taxable year and before January 1 of the  
69 current taxable year, has not had a qualifying change.

70 (f) "Qualifying change" means one of the following changes to real property that  
71 occurs on or after January 1 of the previous taxable year and before January 1 of the current  
72 taxable year:

73 (i) a physical improvement if, solely as a result of the physical improvement, the fair  
74 market value of the physical improvement equals or exceeds the greater of 10% of fair market  
75 value of the real property or \$20,000;

76 (ii) a zoning change, if the fair market value of the real property increases solely as a  
77 result of the zoning change; or

78 (iii) a change in the legal description of the real property, if the fair market value of the  
79 real property increases solely as a result of the change in the legal description of the real  
80 property.

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

83 (i) filing the application with the county board of equalization within the time period  
84 described in Subsection (3); or

85 (ii) making an application by telephone or other electronic means within the time

86 period described in Subsection (3) if the county legislative body passes a resolution under  
87 Subsection [~~(8)~~] (9) authorizing a taxpayer to make an application by telephone or other  
88 electronic means.

89 (b) (i) The county board of equalization shall make a rule describing the contents of the  
90 application.

91 (ii) In addition to any information the county board of equalization requires, the  
92 application shall include information about:

93 (A) the burden of proof in an appeal involving qualified real property; and

94 (B) the process for the taxpayer to learn the inflation adjusted value of the qualified  
95 real property.

96 (c) (i) (A) The county assessor shall notify the county board of equalization of a  
97 qualified real property's inflation adjusted value within 15 business days after the date on which  
98 the county assessor receives notice that a taxpayer filed an appeal with the county board of  
99 equalization.

100 (B) The county assessor shall notify the commission of a qualified real property's  
101 inflation adjusted value within 15 business days after the date on which the county assessor  
102 receives notice that a person dissatisfied with the decision of a county board of equalization  
103 files an appeal with the commission.

104 (ii) (A) A person may not appeal a county assessor's calculation of inflation adjusted  
105 value but may appeal the fair market value of a qualified real property.

106 (B) A person may appeal a determination of whether, on or after January 1 of the  
107 previous taxable year and before January 1 of the current taxable year, real property had a  
108 qualifying change.

109 (3) (a) Except as provided in Subsection (3)(b) and for purposes of Subsection (2), a  
110 taxpayer shall make an application to appeal the valuation or the equalization of the taxpayer's  
111 real property on or before the later of:

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

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

114 provides the notice under Section 59-2-919.1.

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

119 (4) (a) Except as provided in Subsection (4)(b), the taxpayer shall include in the  
120 application under Subsection (2)(a):

121 (i) the taxpayer's estimate of the fair market value of the property and any evidence that  
122 may indicate that the assessed valuation of the taxpayer's property is improperly equalized with  
123 the assessed valuation of comparable properties; and

124 (ii) a signed statement of the personal property located in a multi-tenant residential  
125 property, as that term is defined in Section 59-2-301.8 if the taxpayer:

126 (A) appeals the value of multi-tenant residential property assessed in accordance with  
127 Section 59-2-301.8; and

128 (B) intends to contest the value of the personal property located within the multi-tenant  
129 residential property.

130 (b) (i) For an appeal involving qualified real property:

131 (A) the county board of equalization shall presume that the fair market value of the  
132 qualified real property is equal to the inflation adjusted value; and

133 (B) except as provided in Subsection (4)(b)(ii), the taxpayer may provide the  
134 information described in Subsection (4)(a).

135 (ii) If the taxpayer seeks to prove that the fair market value of the qualified real  
136 property is below the inflation adjusted value, the taxpayer shall provide the information  
137 described in Subsection (4)(a).

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

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

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

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

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

149 (6) (a) Except as provided in Subsection (6)(c), at least five days before the day on  
150 which the county board of equalization holds a public hearing on an appeal:

151 (i) the county assessor shall provide the taxpayer any evidence the county assessor  
152 relies upon in support of the county assessor's valuation; and

153 (ii) the taxpayer shall provide the county assessor any evidence not previously provided  
154 to the county assessor that the taxpayer relies upon in support of the taxpayer's appeal.

155 (b) (i) The deadline described in Subsection (6)(a) does not apply to evidence that is  
156 commercial information as defined in Section 59-1-404, if:

157 (A) for the purpose of complying with Section 59-1-404, the county assessor requires  
158 that the taxpayer execute a nondisclosure agreement before the county assessor discloses the  
159 evidence; and

160 (B) the taxpayer fails to execute the nondisclosure agreement before the deadline  
161 described in Subsection (6)(a).

162 (ii) The county assessor shall disclose evidence described in Subsection (6)(b)(i) as  
163 soon as practicable after the county assessor receives the executed nondisclosure agreement.

164 (iii) The county assessor shall provide the taxpayer a copy of the nondisclosure  
165 agreement with reasonable time for the taxpayer to review and execute the agreement before  
166 the deadline described in Subsection (6)(a) expires.

167 (c) If at the public hearing, a party presents evidence not previously provided to the  
168 other party, the county board of equalization shall allow the other party to respond to the  
169 evidence in writing within 10 days after the day on which the public hearing occurs.

170 (d) (i) A county board of equalization may adopt rules governing the deadlines  
171 described in this Subsection (6), if the rules are no less stringent than the provisions of this  
172 Subsection (6).

173 (ii) A county board of equalization's rule that complies with Subsection (6)(d)(i)  
174 controls over the provisions of this subsection.

175 ~~[(6)]~~ (7) (a) The county board of equalization shall meet and hold public hearings as  
176 described in Section 59-2-1001.

177 (b) (i) For purposes of this Subsection ~~[(6)]~~ (7)(b), "significant adjustment" means a  
178 proposed adjustment to the valuation of real property that:

179 (A) is to be made by a county board of equalization; and

180 (B) would result in a valuation that differs from the original assessed value by at least  
181 20% and \$1,000,000.

182 (ii) When a county board of equalization is going to consider a significant adjustment,  
183 the county board of equalization shall:

184 (A) list the significant adjustment as a separate item on the agenda of the public  
185 hearing at which the county board of equalization is going to consider the significant  
186 adjustment; and

187 (B) for purposes of the agenda described in Subsection ~~[(6)]~~ (7)(b)(ii)(A), provide a  
188 description of the property for which the county board of equalization is considering a  
189 significant adjustment.

190 (c) The county board of equalization shall make a decision on each appeal filed in  
191 accordance with this section within 60 days after the day on which the taxpayer makes an  
192 application.

193 (d) The commission may approve the extension of a time period provided for in  
194 Subsection ~~[(6)]~~ (7)(c) for a county board of equalization to make a decision on an appeal.

195 (e) Unless the commission approves the extension of a time period under Subsection  
196 ~~[(6)]~~ (7)(d), if a county board of equalization fails to make a decision on an appeal within the  
197 time period described in Subsection ~~[(6)]~~ (7)(c), the county legislative body shall:

198 (i) list the appeal, by property owner and parcel number, on the agenda for the next  
199 meeting the county legislative body holds after the expiration of the time period described in  
200 Subsection ~~[(6)]~~ (7)(c); and

201 (ii) hear the appeal at the meeting described in Subsection ~~[(6)]~~ (7)(e)(i).

202 (f) The decision of the county board of equalization shall contain:

203 (i) a determination of the valuation of the property based on fair market value; and

204 (ii) a conclusion that the fair market value is properly equalized with the assessed value  
205 of comparable properties.

206 (g) If no evidence is presented before the county board of equalization, the county  
207 board of equalization shall presume that the equalization issue has been met.

208 (h) (i) If the fair market value of the property that is the subject of the appeal deviates  
209 plus or minus 5% from the assessed value of comparable properties, the county board of  
210 equalization shall adjust the valuation of the appealed property to reflect a value equalized with  
211 the assessed value of comparable properties.

212 (ii) Subject to Sections 59-2-301.1, 59-2-301.2, 59-2-301.3, and 59-2-301.4, equalized  
213 value established under Subsection ~~[(6)]~~ (7)(h)(i) shall be the assessed value for property tax  
214 purposes until the county assessor is able to evaluate and equalize the assessed value of all  
215 comparable properties to bring all comparable properties into conformity with full fair market  
216 value.

217 ~~[(7)]~~ (8) If any taxpayer is dissatisfied with the decision of the county board of  
218 equalization, the taxpayer may file an appeal with the commission as described in Section  
219 59-2-1006.

220 ~~[(8)]~~ (9) A county legislative body may pass a resolution authorizing taxpayers owing  
221 taxes on property assessed by that county to file property tax appeals applications under this  
222 section by telephone or other electronic means.