

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

7 **LONG TITLE**

8 **Committee Note:**

9 The Revenue and Taxation Interim Committee recommended this bill.

10 Legislative Vote: 13 voting for 0 voting against 6 absent

11 **General Description:**

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

13 **Highlighted Provisions:**

14 This bill:

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

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**



28 AMENDS:

29 **59-2-1004**, as last amended by Laws of Utah 2021, Chapter 377



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

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

33 **59-2-1004. Appeal to county board of equalization -- Real property -- Time**
34 **period for appeal -- Public hearing requirements -- Decision of board -- Extensions**
35 **approved by commission -- Appeal to commission.**

36 (1) As used in this section:

37 (a) "Final assessed value" means:

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

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

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

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

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

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

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

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

58 (ii) located within the same county and within the same market area as the qualified

59 real property.

60 (d) "Property value change" means the percentage change in the fair market value of
61 real property on or after January 1 of the previous year and before January 1 of the current year.

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

63 (i) for which:

64 (A) the taxpayer or a county assessor appealed the valuation or equalization for the
65 previous taxable year to the county board of equalization in accordance with this section or the
66 commission in accordance with Section 59-2-1006;

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

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

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

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

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

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

81 (iii) a change in the legal description of the real property, if the fair market value of the
82 real property increases solely as a result of the change in the legal description of the real
83 property.

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

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

88 (ii) making an application by telephone or other electronic means within the time
89 period described in Subsection (3) if the county legislative body passes a resolution under

90 Subsection [~~(8)~~] (9) authorizing a taxpayer to make an application by telephone or other
91 electronic means.

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

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

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

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

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

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

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

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

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

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

116 (ii) the last day of a 45-day period beginning on the day on which the county auditor
117 provides the notice under Section 59-2-919.1.

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

121 prescribed in Subsection (3)(a).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

178 ~~[(6)]~~ (7) (a) The county board of equalization shall meet and hold public hearings as
179 described in Section 59-2-1001.

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

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

183 (B) would result in a valuation that differs from the original assessed value by at least
184 20% and \$1,000,000.

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

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

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

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

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

198 (e) Unless the commission approves the extension of a time period under Subsection
199 [~~(6)~~] (7)(d), if a county board of equalization fails to make a decision on an appeal within the
200 time period described in Subsection [~~(6)~~] (7)(c), the county legislative body shall:

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

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

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

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

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

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

211 (h) (i) If the fair market value of the property that is the subject of the appeal deviates
212 plus or minus 5% from the assessed value of comparable properties, the county board of

213 equalization shall adjust the valuation of the appealed property to reflect a value equalized with

214 the assessed value of comparable properties.

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

220 [~~7~~] (8) If any taxpayer is dissatisfied with the decision of the county board of
221 equalization, the taxpayer may file an appeal with the commission as described in Section
222 [59-2-1006](#).

223 [~~8~~] (9) A county legislative body may pass a resolution authorizing taxpayers owing
224 taxes on property assessed by that county to file property tax appeals applications under this
225 section by telephone or other electronic means.