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PROPERTY AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to the disclosure of a sale of nonresidential property.

Highlighted Provisions:

This bill:

- ▶ requires an individual who presents a document transferring nonresidential property for recording to file an affidavit disclosing information about the sale of the property, including sales price;
- ▶ provides that information filed in the affidavit is commercial information subject to confidentiality protections; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-1-404, as last amended by Laws of Utah 2021, Chapter 367

ENACTS:

57-3-110, Utah Code Annotated 1953



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

Section 1. Section **57-3-110** is enacted to read:

57-3-110. Filing of affidavit disclosing details of real property transaction.

(1) As used in this section, "residential property" means a single-family residence or a two-to-four family residence.

(2) (a) Except as provided in Subsection (2)(b), an individual who presents to the county recorder a document for recording shall file an affidavit signed and completed in accordance with Subsection (3).

(b) The affidavit described in Subsection (3) is not required to accompany a document transferring residential property.

(3) The affidavit shall:

(a) be signed by each buyer or the buyer's authorized agent and each seller or the seller's authorized agent;

(b) include:

(i) the full names and current mailing addresses of each buyer and seller;

(ii) the parcel number(s) of the property for which a document was presented for recording;

(iii) a legal description of the property;

(iv) the square footage or the acreage of the property; and

(v) the amount paid, whether in money or other thing of value, for the property.

(4) (a) The county recorder may not record a document without the filing of the affidavit described in Subsection (3).

(b) If an affidavit is not filed, the county recorder shall notify the individual presenting the document that the county recorder may not record the document until the buyer, the buyer's authorized agent, the seller, or the seller's authorized agent files the affidavit.

(5) (a) The county recorder may not record the affidavit.

(b) The county recorder shall forward the affidavit to the county assessor for inclusion in the database described in Section [59-2-303.1](#).

Section 2. Section **59-1-404** is amended to read:

59-1-404. Definitions -- Confidentiality of commercial information obtained from

59 a property taxpayer or derived from the commercial information -- Rulemaking
 60 authority -- Exceptions -- Written explanation -- Signature requirements -- Retention of
 61 signed explanation by employer -- Penalty.

62 (1) As used in this section:

63 (a) (i) "Appraiser" means an individual who holds an appraiser's certificate or license
 64 issued by the Division of Real Estate under Title 61, Chapter 2g, Real Estate Appraiser
 65 Licensing and Certification Act [~~and~~].

66 (ii) "Appraiser" includes an individual associated with an appraiser who assists the
 67 appraiser in preparing an appraisal.

68 (b) "Appraisal" [~~is as~~] means the same as that term is defined in Section 61-2g-102.

69 (c) (i) "Commercial information" means:

70 (A) information of a commercial nature obtained from a property taxpayer regarding
 71 the property taxpayer's property; [~~or~~]

72 (B) information from the affidavit described in Section 57-3-110; or

73 [~~(B)~~] (C) information derived from the information described in this Subsection
 74 (1)(c)(i).

75 (ii) (A) "Commercial information" does not include information regarding a property
 76 taxpayer's property if the information is intended for public use.

77 (B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
 78 purposes of Subsection (1)(c)(ii)(A), the commission may by rule [~~prescribe~~] provide the
 79 circumstances under which information is intended for public use, except that the rule may not
 80 provide that the affidavit described in Section 59-3-110 is intended for public use..

81 (d) "Consultation service" [~~is as~~] means the same as that term is defined in Section
 82 61-2g-102.

83 (e) "Locally assessed property" means property that is assessed by a county assessor in
 84 accordance with Chapter 2, Part 3, County Assessment.

85 (f) "Property taxpayer" means a person that:

86 (i) is a property owner; or

87 (ii) has in effect a contract with a property owner to:

88 (A) make filings on behalf of the property owner;

89 (B) process appeals on behalf of the property owner; or

90 (C) pay a tax under Chapter 2, Property Tax Act, on the property owner's property.

91 (g) "Property taxpayer's property" means property with respect to which a property

92 taxpayer:

93 (i) owns the property;

94 (ii) makes filings relating to the property;

95 (iii) processes appeals relating to the property; or

96 (iv) pays a tax under Chapter 2, Property Tax Act, on the property.

97 (h) "Protected commercial information" means commercial information that:

98 (i) identifies a specific property taxpayer; or

99 (ii) would reasonably lead to the identity of a specific property taxpayer.

100 (2) An individual listed under Subsection 59-1-403(2)(a) may not disclose commercial

101 information:

102 (a) obtained in the course of performing any duty that the individual listed under

103 Subsection 59-1-403(2)(a) performs under Chapter 2, Property Tax Act; or

104 (b) relating to an action or proceeding:

105 (i) with respect to a tax imposed on property in accordance with Chapter 2, Property

106 Tax Act; and

107 (ii) that is filed in accordance with:

108 (A) this chapter;

109 (B) Chapter 2, Property Tax Act; or

110 (C) this chapter and Chapter 2, Property Tax Act.

111 (3) (a) Notwithstanding Subsection (2) and subject to Subsection (3)(c), an individual

112 listed under Subsection 59-1-403(2)(a) may disclose the following information:

113 (i) the assessed value of property;

114 (ii) the tax rate imposed on property;

115 (iii) a legal description of property;

116 (iv) the physical description or characteristics of property, including a street address or

117 parcel number for the property;

118 (v) the square footage or acreage of property;

119 (vi) the square footage of improvements on property;

120 (vii) the name of a property taxpayer;

- 121 (viii) the mailing address of a property taxpayer;
- 122 (ix) the amount of a property tax:
- 123 (A) assessed on property;
- 124 (B) due on property;
- 125 (C) collected on property;
- 126 (D) abated on property; or
- 127 (E) deferred on property;
- 128 (x) the amount of the following relating to property taxes due on property:
- 129 (A) interest;
- 130 (B) costs; or
- 131 (C) other charges;
- 132 (xi) the tax status of property, including:
- 133 (A) an exemption;
- 134 (B) a property classification;
- 135 (C) a bankruptcy filing; or
- 136 (D) whether the property is the subject of an action or proceeding under this title;
- 137 (xii) information relating to a tax sale of property; or
- 138 (xiii) information relating to single-family residential property.
- 139 (b) Notwithstanding Subsection (2) and subject to Subsection (3)(c), an individual
- 140 listed under Subsection 59-1-403(2)(a) shall disclose, upon request, the information described
- 141 in Subsection 59-2-1007(9).
- 142 (c) (i) Subject to Subsection (3)(c)(ii), a person may receive the information described
- 143 in Subsection (3)(a) or (b) in written format.
- 144 (ii) The following may charge a reasonable fee to cover the actual cost of providing the
- 145 information described in Subsection (3)(a) or (b) in written format:
- 146 (A) the commission;
- 147 (B) a county;
- 148 (C) a city; or
- 149 (D) a town.
- 150 (4) (a) Notwithstanding Subsection (2) and except as provided in Subsection (4)(c), an
- 151 individual listed under Subsection 59-1-403(2)(a) shall disclose commercial information:

152 (i) in accordance with judicial order;
153 (ii) on behalf of the commission in any action or proceeding:
154 (A) under this title;
155 (B) under another law under which a property taxpayer is required to disclose
156 commercial information; or
157 (C) to which the commission is a party;
158 (iii) on behalf of any party to any action or proceeding under this title if the commercial
159 information is directly involved in the action or proceeding; or
160 (iv) if the requirements of Subsection (4)(b) are met, that is:
161 (A) relevant to an action or proceeding:
162 (I) filed in accordance with this title; and
163 (II) involving property; or
164 (B) in preparation for an action or proceeding involving property.
165 (b) Commercial information shall be disclosed in accordance with Subsection
166 (4)(a)(iv):
167 (i) if the commercial information is obtained from:
168 (A) a real estate agent if the real estate agent is not a property taxpayer of the property
169 that is the subject of the action or proceeding;
170 (B) an appraiser if the appraiser:
171 (I) is not a property taxpayer of the property that is the subject of the action or
172 proceeding; and
173 (II) did not receive the commercial information pursuant to Subsection (8);
174 (C) a property manager if the property manager is not a property taxpayer of the
175 property that is the subject of the action or proceeding; or
176 (D) a property taxpayer other than a property taxpayer of the property that is the subject
177 of the action or proceeding;
178 (ii) regardless of whether the commercial information is disclosed in more than one
179 action or proceeding; and
180 (iii) (A) if a county board of equalization conducts the action or proceeding, the county
181 board of equalization takes action to provide that any commercial information disclosed during
182 the action or proceeding may not be disclosed by any person conducting or participating in the

183 action or proceeding except as specifically allowed by this section;

184 (B) if the commission conducts the action or proceeding, the commission enters a
185 protective order or, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
186 Act, makes rules specifying that any commercial information disclosed during the action or
187 proceeding may not be disclosed by any person conducting or participating in the action or
188 proceeding except as specifically allowed by this section; or

189 (C) if a court of competent jurisdiction conducts the action or proceeding, the court
190 enters a protective order specifying that any commercial information disclosed during the
191 action or proceeding may not be disclosed by any person conducting or participating in the
192 action or proceeding except as specifically allowed by this section.

193 (c) Notwithstanding Subsection (4)(a), a court may require the production of, and may
194 admit in evidence, commercial information that is specifically pertinent to the action or
195 proceeding.

196 (5) Notwithstanding Subsection (2), this section does not prohibit:

197 (a) the following from receiving a copy of any commercial information relating to the
198 basis for assessing a tax that is charged to a property taxpayer:

199 (i) the property taxpayer;

200 (ii) a duly authorized representative of the property taxpayer;

201 (iii) a person that has in effect a contract with the property taxpayer to:

202 (A) make filings on behalf of the property taxpayer;

203 (B) process appeals on behalf of the property taxpayer; or

204 (C) pay a tax under Chapter 2, Property Tax Act, on the property taxpayer's property;

205 (iv) a property taxpayer that purchases property from another property taxpayer; or

206 (v) a person that the property taxpayer designates in writing as being authorized to
207 receive the commercial information;

208 (b) the publication of statistics as long as the statistics are classified to prevent the
209 identification of a particular property taxpayer's commercial information; or

210 (c) the inspection by the attorney general or other legal representative of the state or a
211 legal representative of a political subdivision of the state of the commercial information of a
212 property taxpayer:

213 (i) that brings action to set aside or review a tax or property valuation based on the

214 commercial information;

215 (ii) against which an action or proceeding is contemplated or has been instituted under
216 this title; or

217 (iii) against which the state or a political subdivision of the state has an unsatisfied
218 money judgment.

219 (6) Notwithstanding Subsection (2), in accordance with Title 63G, Chapter 3, Utah
220 Administrative Rulemaking Act, the commission may by rule establish standards authorizing
221 an individual listed under Subsection 59-1-403(2)(a) to disclose commercial information:

222 (a) (i) in a published decision; or

223 (ii) in carrying out official duties; and

224 (b) if that individual listed under Subsection 59-1-403(2)(a) consults with the property
225 taxpayer that provided the commercial information.

226 (7) Notwithstanding Subsection (2):

227 (a) an individual listed under Subsection 59-1-403(2)(a) may share commercial
228 information with the following:

229 (i) another individual listed in Subsection 59-1-403(2)(a)(i) or (ii); or

230 (ii) a representative, agent, clerk, or other officer or employee of a county as required
231 to fulfill an obligation created by Chapter 2, Property Tax Act;

232 (b) an individual listed under Subsection 59-1-403(2)(a) may perform the following to
233 fulfill an obligation created by Chapter 2, Property Tax Act:

234 (i) publish notice;

235 (ii) provide notice; or

236 (iii) file a lien; or

237 (c) the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah
238 Administrative Rulemaking Act, share commercial information gathered from returns and other
239 written statements with the federal government, any other state, any of the political
240 subdivisions of another state, or any political subdivision of this state, if these political
241 subdivisions or the federal government grant substantially similar privileges to this state.

242 (8) Notwithstanding Subsection (2):

243 (a) subject to the limitations in this section, an individual described in Subsection
244 59-1-403(2)(a) may share the following commercial information with an appraiser:

- 245 (i) the sales price of locally assessed property and the related financing terms;
- 246 (ii) capitalization rates and related rates and ratios related to the valuation of locally
247 assessed property; and
- 248 (iii) income and expense information related to the valuation of locally assessed
249 property; and
- 250 (b) except as provided in Subsection (4), an appraiser who receives commercial
251 information:
- 252 (i) may disclose the commercial information:
- 253 (A) to an individual described in Subsection 59-1-403(2)(a);
- 254 (B) to an appraiser;
- 255 (C) in an appraisal if protected commercial information is removed to protect its
256 confidential nature; or
- 257 (D) in performing a consultation service if protected commercial information is not
258 disclosed; and
- 259 (ii) may not use the commercial information:
- 260 (A) for a purpose other than to prepare an appraisal or perform a consultation service;
- 261 or
- 262 (B) for a purpose intended to be, or which could reasonably be foreseen to be,
263 anti-competitive to a property taxpayer.
- 264 (9) (a) The commission shall:
- 265 (i) prepare a written explanation of this section; and
- 266 (ii) make the written explanation described in Subsection (9)(a)(i) available to the
267 public.
- 268 (b) An employer of a person described in Subsection 59-1-403(2)(a) shall:
- 269 (i) provide the written explanation described in Subsection (9)(a)(i) to each person
270 described in Subsection 59-1-403(2)(a) who is reasonably likely to receive commercial
271 information;
- 272 (ii) require each person who receives a written explanation in accordance with
273 Subsection (9)(b)(i) to:
- 274 (A) read the written explanation; and
- 275 (B) sign the written explanation; and

276 (iii) retain each written explanation that is signed in accordance with Subsection
277 (9)(b)(ii) for a time period:

278 (A) beginning on the day on which a person signs the written explanation in
279 accordance with Subsection (9)(b)(ii); and

280 (B) ending six years after the day on which the employment of the person described in
281 Subsection (9)(b)(iii)(A) by the employer terminates.

282 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
283 commission shall by rule define "employer."

284 (10) (a) An individual described in Subsection (1)(a) or 59-1-403(2)(a), or an
285 individual that violates a protective order or similar limitation entered pursuant to Subsection
286 (4)(b)(iii), is guilty of a class A misdemeanor if that person:

287 (i) intentionally discloses commercial information in violation of this section; and

288 (ii) knows that the disclosure described in Subsection (10)(a)(i) is prohibited by this
289 section.

290 (b) If the individual described in Subsection (10)(a) is an officer or employee of the
291 state or a county and is convicted of violating this section, the individual shall be dismissed
292 from office and be disqualified from holding public office in this state for a period of five years
293 thereafter.

294 (c) If the individual described in Subsection (10)(a) is an appraiser, the appraiser shall
295 forfeit any certification or license received under Title 61, Chapter 2g, Real Estate Appraiser
296 Licensing and Certification Act, for a period of five years.

297 (d) If the individual described in Subsection (10)(a) is an individual associated with an
298 appraiser who assists the appraiser in preparing appraisals, the individual shall be prohibited
299 from becoming licensed or certified under Title 61, Chapter 2g, Real Estate Appraiser
300 Licensing and Certification Act, for a period of five years.