

RESIDENTIAL VALUATION APPEAL PROCEDURES

AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Norman K Thurston

Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies provisions related to appeals involving the valuation of residential property.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies that no presumption of correctness attaches to evidence submitted in an appeal to a county board of equalization involving residential property;
- ▶ describes the types of evidence that a county board of equalization may consider in weighing the accuracy of certain residential property sales price information;
- ▶ requires a county board of equalization, in an appeal involving residential property, to only consider evidence submitted by the parties; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



28 **59-2-109**, as last amended by Laws of Utah 2023, Chapter 471



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

31 Section 1. Section **59-2-109** is amended to read:

32 **59-2-109. Burden of proof.**

33 (1) As used in this section:

34 (a) "Applicable lien date" means January 1 of the year in which the valuation or
35 equalization of real property is appealed to the county board of equalization.

36 [~~(a)~~] (b) "Final assessed value" means:

37 (i) for real property for which the taxpayer appealed the valuation or equalization to the
38 county board of equalization in accordance with Section **59-2-1004**, the value given to the real
39 property by the county board of equalization, including a value based on a stipulation of the
40 parties;

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

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

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

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

51 [~~(b)~~] (c) "Inflation adjusted value" means the same as that term is defined in Section
52 **59-2-1004**.

53 [~~(c)~~] (d) "Qualified real property" means real property:

54 (i) that is assessed by a county assessor in accordance with Part 3, County Assessment;

55 (ii) for which:

56 (A) the taxpayer or a county assessor appealed the valuation or equalization for the
57 previous taxable year to the county board of equalization in accordance with Section **59-2-1004**
58 or the commission in accordance with Section **59-2-1006**;

59 (B) the appeal described in Subsection [~~(1)(e)(ii)(A)~~] (1)(d)(ii)(A) resulted in a final
60 assessed value that was lower than the assessed value; and

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

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

65 (e) "Qualifying contract" means a contract for the completed sale of residential
66 property that:

67 (i) involves residential property for which a taxpayer appealed the valuation or
68 equalization to the county board of equalization;

69 (ii) identifies the final sales price for the residential property described in Subsection
70 (1)(e)(i); and

71 (iii) is executed within six months before or after the applicable lien date.

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

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

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

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

83 (2) For an appeal involving the valuation of real property to the county board of
84 equalization or the commission, the party carrying the burden of proof shall demonstrate:

85 (a) substantial error in:

86 (i) for an appeal not involving qualified real property:

87 (A) if Subsection (3) does not apply and the appeal is to the county board of
88 equalization, the original assessed value;

89 (B) if Subsection (3) does not apply and the appeal is to the commission, the value

90 given to the property by the county board of equalization; or

91 (C) if Subsection (3) applies, the original assessed value; or

92 (ii) for an appeal involving qualified real property, the inflation adjusted value; and

93 (b) a sound evidentiary basis upon which the county board of equalization or the

94 commission could adopt a different valuation.

95 (3) (a) The party described in Subsection (3)(b) shall carry the burden of proof before a
96 county board of equalization or the commission, in an action appealing the value of property:

97 (i) that is not qualified real property; and

98 (ii) for which a county assessor, a county board of equalization, or the commission

99 asserts that the fair market value of the assessed property is greater than the original assessed

100 value for that calendar year.

101 (b) For purposes of Subsection (3)(a), the following have the burden of proof:

102 (i) for property assessed under Part 3, County Assessment:

103 (A) the county assessor, if the county assessor is a party to the appeal that asserts that

104 the fair market value of the assessed property is greater than the original assessed value for that

105 calendar year; or

106 (B) the county board of equalization, if the county board of equalization is a party to

107 the appeal that asserts that the fair market value of the assessed property is greater than the

108 original assessed value for that calendar year; or

109 (ii) for property assessed under Part 2, Assessment of Property, the commission, if the

110 commission is a party to the appeal that asserts that the fair market value of the assessed

111 property is greater than the original assessed value for that calendar year.

112 (c) For purposes of this Subsection (3) only, if a county assessor, county board of

113 equalization, or the commission asserts that the fair market value of the assessed property is

114 greater than the original assessed value for that calendar year:

115 (i) ~~It~~ **→ except as provided in Subsection (5), ←** ~~It~~ the original assessed value shall lose the

115a presumption of correctness;

116 (ii) a preponderance of the evidence shall suffice to sustain the burden for all parties;

117 and

118 (iii) the county board of equalization or the commission shall be free to consider all

119 evidence allowed by law in determining fair market value, including the original assessed

120 value.

121 (4) (a) The party described in Subsection (4)(b) shall carry the burden of proof before a
 122 county board of equalization or the commission in an action appealing the value of qualified
 123 real property if at least one party presents evidence of or otherwise asserts a value other than
 124 inflation adjusted value.

125 (b) For purposes of Subsection (4)(a):

126 (i) the county assessor or the county board of equalization that is a party to the appeal
 127 has the burden of proof if the county assessor or county board of equalization presents evidence
 128 of or otherwise asserts a value that is greater than the inflation adjusted value; or

129 (ii) the taxpayer that is a party to the appeal has the burden of proof if the taxpayer
 130 presents evidence of or otherwise asserts a value that is less than the inflation adjusted value.

131 (c) The burdens of proof described in Subsection (4)(b) apply before a county board of
 132 equalization or the commission even if the previous year's valuation is:

133 (i) pending an appeal requested in accordance with Section 59-2-1006 or judicial
 134 review requested in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial
 135 Review; or

136 (ii) overturned by the commission as a result of an appeal requested in accordance with
 137 Section 59-2-1006 or by a court of competent jurisdiction as a result of judicial review
 138 requested in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial
 139 Review.

140 (5) (a) This Subsection (5) applies only to an appeal to a county board of equalization
 141 involving the valuation of residential property that is not qualified real property.

142 (b) There is no presumption of correctness for evidence submitted in an appeal
 143 described in Subsection (5)(a), including the original assessed value of the residential property.

144 (c) Notwithstanding Subsection (5)(b), if a qualifying contract is submitted as evidence
 145 in an appeal described in Subsection (5)(a), the only evidence that the county board of
 146 equalization ~~H~~→ or hearing officer ←~~H~~ may consider, in determining the sales price in the
 146a qualifying contract does not
 147 provide an accurate or reliable indication of the value of the residential property, is evidence of
 148 the following, if submitted:

149 (i) evidence disputing the nature of the qualifying contract as an arms-length
 150 transaction;

151 (ii) evidence demonstrating that changes in market conditions have occurred in the

152 time period between the day on which the qualifying contract was executed and the applicable
153 lien date; and

154 (iii) evidence demonstrating that a qualifying change to the residential property has
155 occurred in the time period between the day on which the qualifying contract was executed and
156 the applicable lien date.

157 (d) In determining the value of residential property in an appeal described in
158 Subsection (5)(a), the county board of equalization may not consider any evidence or
159 information other than the evidence submitted to the county board of equalization by the
160 parties in the appeal.

161 Section 2. **Effective date.**

162 This bill takes effect on May 1, 2024.