

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:



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

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

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

59-2-109. Burden of proof.

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

(ii) for which:

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) substantial error in:

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

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

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

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

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

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

(b) a sound evidentiary basis upon which the county board of equalization or the commission could adopt a different valuation.

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

(i) that is not qualified real property; and

(ii) for which a county assessor, a county board of equalization, or the commission asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year.

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

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

(A) the county assessor, if the county assessor is a party to the appeal that asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year; or

(B) the county board of equalization, if the county board of equalization is a party to the appeal that asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year; or

(ii) for property assessed under Part 2, Assessment of Property, the commission, if the commission is a party to the appeal that asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year.

(c) For purposes of this Subsection (3) only, if a county assessor, county board of equalization, or the commission asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year:

(i) the original assessed value shall lose the presumption of correctness;

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

and

(iii) the county board of equalization or the commission shall be free to consider all evidence allowed by law in determining fair market value, including the original assessed value.

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

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

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

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

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

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

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

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

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

(c) Notwithstanding Subsection (5)(b), if a qualifying contract is submitted as evidence in an appeal described in Subsection (5)(a), the only evidence that the county board of equalization ~~H→~~ or hearing officer ~~←H~~ may consider, in determining the sales price in the qualifying contract does not

provide an accurate or reliable indication of the value of the residential property, is evidence of the following, if submitted:

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

(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.