

PROPERTY TAX VALUATION AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Timothy D. Hawkes

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions of the Property Tax Act related to valuation and appeals.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies and amends:

- the burdens of proof for appeals involving certain real property for which there was a reduction in assessed value after the county assessor issued the valuation notice; and

- the application of the automatic county review process for certain real property valuations or equalizations that exceed a threshold; and

- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-109, as last amended by Laws of Utah 2019, Chapter 16

59-2-303.2, as enacted by Laws of Utah 2019, Chapter 16



28 [59-2-1004](#), as last amended by Laws of Utah 2020, Chapter 86

29

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) "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 Section [59-2-1004](#), the value given to the real
37 property by a county board of equalization [~~after the appeal~~];

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

41 (A) the commission, if the commission has issued a decision in the appeal; or

42 (B) a county board of equalization, if the commission has not yet issued a decision in
43 the appeal; [~~or~~]

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

47 (iv) the value given to real property by stipulation between the taxpayer and the county
48 assessor after the county auditor issues the valuation notice described in Section [59-2-919.1](#).

49 (b) "Inflation adjusted value" means the [~~value of the real property that is the subject of~~
50 ~~the appeal as calculated by the county assessor in accordance with Subsection [59-2-1004](#)(2)(c)]~~
51 same as that term is defined in Section [59-2-1004](#).

52 (c) "Qualified real property" means real property:

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

54 (ii) for which:

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

58 [~~(B) as a result of the appeal described in Subsection (1)(c)(ii)(A), a county board of~~

59 equalization or the commission gave a final assessed value that was lower than the assessed
60 value; and]

61 (A) the final assessed value for the previous taxable year was lower than the assessed
62 value stated on the valuation notice described in Section 59-2-919.1 for the same taxable year;
63 and

64 [~~(C)~~] (B) the assessed value for the current taxable year is higher than the inflation
65 adjusted value; and

66 (iii) that, between January 1 of the previous taxable year and January 1 of the current
67 taxable year, has not [~~been improved or changed beyond the improvements in place on January~~
68 ~~1 of the previous taxable year.] had a qualifying change.~~

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

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

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

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

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

82 (a) substantial error in:

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

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

86 (B) if Subsection (3) does not apply and the appeal is to the commission, the value
87 given to the property by the county board of equalization; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

114 and

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

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

121 inflation adjusted value.

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

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

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

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

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

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

137 Section 2. Section 59-2-303.2 is amended to read:

138 **59-2-303.2. Automatic review of assessed value of review property.**

139 (1) As used in this section:

140 (a) "Final assessed value" means:

141 (i) for a review property for which the taxpayer did not appeal the valuation or
142 equalization in accordance with Section 59-2-1004, the assessed value as stated on the
143 valuation notice described in Section 59-2-919.1;

144 (ii) for a review property for which the taxpayer appealed the valuation or equalization
145 in accordance with Section 59-2-1004, the assessed value given to the review property by a
146 county board of equalization after the appeal;

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

150 (A) the commission, if the commission has issued a decision in the appeal; or

151 (B) a county board of equalization, if the commission has not yet issued a decision in

152 the appeal; or

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

156 (b) "Median property value change" means the midpoint of the property value changes
157 for all real property that is:

158 (i) of the same class of real property as the review property; and

159 (ii) located within the same county and within the same market area as the review
160 property.

161 (c) "Property value change" means the percentage change in the fair market value of
162 real property between January 1 of the previous year and January 1 of the current year.

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

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

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

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

174 ~~[(d)]~~ (e) "Review property" means real property located in the county:

175 (i) that between January 1 of the previous year and January 1 of the current year has not
176 ~~[been improved or changed beyond improvements in place on January 1 of the previous taxable~~
177 ~~year]~~ had a qualifying change; and

178 (ii) for which the county assessor did not conduct a detailed review of property
179 characteristics during the current taxable year.

180 ~~[(e)]~~ (f) "Threshold increase" means an increase in a review property's assessed value
181 for the current taxable year compared to the final assessed value of the review property for the
182 previous taxable year that is:

- 183 (i) the median property value change plus 15%; and
- 184 (ii) at least \$10,000.

185 (2) (a) Before completing and delivering the assessment book to the county auditor in
 186 accordance with Section 59-2-311, the county assessor shall review the assessment of a review
 187 property for which the assessed value for the current taxable year is equal to or exceeds the
 188 threshold increase.

189 (b) The county assessor shall retain a record of the properties for which the county
 190 assessor conducts a review in accordance with this section and the results of that review.

191 (3) (a) If the county assessor determines that the assessed value of the review property
 192 reflects the review property's fair market value, the county assessor ~~shall~~ may not adjust the
 193 review property's assessed value.

194 (b) If the county assessor determines that the assessed value of the review property
 195 does not reflect the review property's fair market value, the county assessor shall adjust the
 196 assessed value of the review property to reflect the fair market value.

197 (4) The review process described in this section does not supersede or otherwise affect
 198 a taxpayer's right to appeal or to seek judicial review of the valuation or equalization of a
 199 review property in accordance with:

- 200 (a) this part;
- 201 (b) Title 59, Chapter 1, Part 6, Judicial Review; or
- 202 (c) Title 63G, Chapter 4, Part 4, Judicial Review.

203 Section 3. Section 59-2-1004 is amended to read:

204 **59-2-1004. Appeal to county board of equalization -- Real property -- Time**
 205 **period for appeal -- Public hearing requirements -- Decision of board -- Extensions**
 206 **approved by commission -- Appeal to commission.**

207 (1) As used in this section:

208 (a) "Final assessed value" means:

209 (i) for real property for which the taxpayer appealed the valuation or equalization to the
 210 county board of equalization in accordance with this section, the value given to the real
 211 property by a county board of equalization ~~[after the appeal]~~;

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

214 real property by:

215 (A) the commission, if the commission has issued a decision in the appeal; or

216 (B) a county board of equalization, if the commission has not yet issued a decision in
217 the appeal; ~~[or]~~

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

221 (iv) the value given to real property by stipulation between the taxpayer and the county
222 assessor after the county auditor issues the valuation notice described in Section 59-2-919.1.

223 (b) "Inflation adjusted value" means the value of the real property that is the subject of
224 the appeal as calculated by ~~[the county assessor in accordance with Subsection (2)(c)]~~ changing
225 the final assessed value for the previous taxable year for the real property by the median
226 property value change.

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

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

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

232 (d) "Property value change" means the percentage change in the fair market value of
233 real property between January 1 of the previous year and January 1 of the current year.

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

235 (i) for which:

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

239 ~~[(B) as a result of the appeal described in Subsection (1)(c)(i)(A), a county board of~~
240 ~~equalization or the commission gave a final assessed value that was lower than the assessed~~
241 ~~value; and]~~

242 (A) the final assessed value for the previous taxable year was lower than the assessed
243 value stated on the valuation notice described in Section 59-2-919.1 for the same taxable year;
244 and

245 [(C)] (B) the assessed value for the current taxable year is higher than the inflation
246 adjusted value; and

247 (ii) that, between January 1 of the previous taxable year and January 1 of the current
248 taxable year, has not ~~[been improved or changed beyond the improvements in place on January~~
249 ~~1 of the previous taxable year.]~~ had a qualifying change.

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

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

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

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

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

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

265 (ii) making an application by telephone or other electronic means within the time
266 period described in Subsection (3) if the county legislative body passes a resolution under
267 Subsection (8) authorizing a taxpayer to make an application by telephone or other electronic
268 means.

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

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

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

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

276 ~~[(c) (i) The county assessor shall calculate inflation adjusted value by changing the~~
277 ~~final assessed value for the previous taxable year of the real property that is the subject of the~~
278 ~~appeal by the median property value change.]~~

279 [(ii)] (c) (i) (A) The county assessor shall notify the county board of equalization of a
280 qualified real property's inflation adjusted value within 15 business days after the date on which
281 the county assessor receives notice that a taxpayer filed an appeal with the county board of
282 equalization.

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

287 [(iii)] (ii) (A) A person may not appeal a county assessor's calculation of inflation
288 adjusted value but may appeal the fair market value of a qualified real property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

332 (6) (a) The county board of equalization shall meet and hold public hearings as
333 described in Section 59-2-1001.

334 (b) (i) For purposes of this Subsection (6)(b), "significant adjustment" means a
335 proposed adjustment to the valuation of real property that:

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

337 (B) would result in a valuation that differs from the original assessed value by at least

338 20% and \$1,000,000.

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

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

344 (B) for purposes of the agenda described in Subsection (6)(b)(ii)(A), provide a
345 description of the property for which the county board of equalization is considering a
346 significant adjustment.

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

350 (d) The commission may approve the extension of a time period provided for in
351 Subsection (6)(c) for a county board of equalization to make a decision on an appeal.

352 (e) Unless the commission approves the extension of a time period under Subsection
353 (6)(d), if a county board of equalization fails to make a decision on an appeal within the time
354 period described in Subsection (6)(c), the county legislative body shall:

355 (i) list the appeal, by property owner and parcel number, on the agenda for the next
356 meeting the county legislative body holds after the expiration of the time period described in
357 Subsection (6)(c); and

358 (ii) hear the appeal at the meeting described in Subsection (6)(e)(i).

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

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

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

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

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

369 (ii) Subject to Sections 59-2-301.1, 59-2-301.2, 59-2-301.3, and 59-2-301.4, equalized
370 value established under Subsection (6)(h)(i) shall be the assessed value for property tax
371 purposes until the county assessor is able to evaluate and equalize the assessed value of all
372 comparable properties to bring all comparable properties into conformity with full fair market
373 value.

374 (7) If any taxpayer is dissatisfied with the decision of the county board of equalization,
375 the taxpayer may file an appeal with the commission as described in Section 59-2-1006.

376 (8) A county legislative body may pass a resolution authorizing taxpayers owing taxes
377 on property assessed by that county to file property tax appeals applications under this section
378 by telephone or other electronic means.

379 **Section 4. Retrospective operation.**

380 This bill has retrospective operation to January 1, 2021.