

Representative Timothy D. Hawkes proposes the following substitute bill:

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 a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:



26 AMENDS:

27 **59-2-109**, as last amended by Laws of Utah 2019, Chapter 16

28 **59-2-303.2**, as enacted by Laws of Utah 2019, Chapter 16

29 **59-2-1004**, as last amended by Laws of Utah 2020, Chapter 86

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

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

33 **59-2-109. Burden of proof.**

34 (1) As used in this section:

35 (a) "Final assessed value" means:

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

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

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

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

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

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

53 (c) "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) ~~[as a result of]~~ the appeal described in Subsection (1)(c)(ii)(A) ~~[a county board of~~
60 ~~equalization or the commission gave]~~ resulted in a final assessed value that was lower than the
61 assessed value; and

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

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

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

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

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

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

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

80 (a) substantial error in:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

112 and

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

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

119 inflation adjusted value.

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

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

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

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

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

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

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

136 **59-2-303.2. Automatic review of assessed value of review property.**

137 (1) As used in this section:

138 (a) "Final assessed value" means:

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

142 (ii) for a review property for which the taxpayer appealed the valuation or equalization
143 in accordance with Section 59-2-1004, the assessed value given to the review property by [a]
144 the county board of equalization [after the appeal], including an assessed value based on a
145 stipulation of the parties;

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

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

150 parties have entered a stipulation; or

151 (B) a county board of equalization, if the commission has not yet issued a decision in
152 the appeal and the parties have not entered a stipulation; 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~~] on or after January 1 of the previous year and before January 1 of the
163 current year.

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

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

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

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

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

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

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

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

184 (i) the median property value change plus 15%; and

185 (ii) at least \$10,000.

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

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

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

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

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

201 (a) this part;

202 (b) Title 59, Chapter 1, Part 6, Judicial Review; or

203 (c) Title 63G, Chapter 4, Part 4, Judicial Review.

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

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

208 (1) As used in this section:

209 (a) "Final assessed value" means:

210 (i) for real property for which the taxpayer appealed the valuation or equalization to the
 211 county board of equalization in accordance with this section, the value given to the real

212 property by ~~[a]~~ the county board of equalization [after the appeal], including a value based on a
213 stipulation of the parties;

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

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

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

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

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

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

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

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

233 (d) "Property value change" means the percentage change in the fair market value of
234 real property ~~[between]~~ on or after January 1 of the previous year and before January 1 of the
235 current year.

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

237 (i) for which:

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

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

243 assessed value; and

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

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

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

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

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

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

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

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

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

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

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

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

273 (B) the process for the taxpayer to learn the inflation adjusted value of the qualified

274 real property.

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

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

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

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

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

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

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

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

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

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

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

305 the assessed valuation of comparable properties; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

336 (B) would result in a valuation that differs from the original assessed value by at least
337 20% and \$1,000,000.

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

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

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

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

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

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

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

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

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

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

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

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

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

367 the assessed value of comparable properties.

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

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

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

378 Section 4. **Effective date.**

379 If approved by two-thirds of all the members elected to each house, this bill takes effect
380 upon approval by the governor, or the day following the constitutional time limit of Utah
381 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
382 the date of veto override.

383 Section 5. **Retrospective operation.**

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