

REAL PROPERTY SALES INFORMATION

DISCLOSURE

2010 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill enacts and modifies provisions relating to real property sales information.

Highlighted Provisions:

This bill:

- ▶ requires a buyer in a real property sale to provide information relating to the sale to the Multicounty Appraisal Trust;
- ▶ authorizes the Trust to share that information with county assessors, the State Tax Commission, and the Utah Association of Realtors;
- ▶ prohibits the disclosure of that information, except in limited circumstances; and
- ▶ provides that information provided to or shared by the Trust is not a record for purposes of the Government Records Access and Management Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a contingent effective date.

Utah Code Sections Affected:

AMENDS:

63G-2-103, as last amended by Laws of Utah 2009, Chapter 246

ENACTS:

57-1-1.5, Utah Code Annotated 1953

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

Section 1. Section **57-1-1.5** is enacted to read:

57-1-1.5. Information relating to a real property sale -- Delivery of information to the Multicounty Appraisal Trust -- Sharing of real property sale information -- Penalty

32 **for unauthorized disclosure.**

33 (1) As used in this section:

34 (a) "Appraisal trust" means the Multicounty Appraisal Trust created by interlocal
35 agreement by all 29 counties in the state.

36 (b) "Real property sale" means a sale of a fee simple interest in real property.

37 (c) "Settlement statement":

38 (i) means a document that:

39 (A) is customarily used in connection with the closing of a sale of real property; and

40 (B) contains details concerning the real property sale, including the identity of the
41 buyer and seller, a description of the real property that is the subject of the real property sale,
42 the sales price, fees and costs associated with the real property sale, and the distribution of the
43 sale proceeds; and

44 (ii) includes the document provided by the United States Department of Housing and
45 Urban Development known as the HUD-1 form.

46 (2) (a) Unless otherwise directed in writing by the buyer or seller under a real property
47 sale, the title company or other person handling the closing of the real property sale shall,
48 within three business days after the closing of the sale, deliver to the appraisal trust the
49 following information relating to the real property sale:

50 (i) the seller's name;

51 (ii) the buyer's name;

52 (iii) the date of the real property sale;

53 (iv) a description of the real property that is the subject of the real property sale; and

54 (v) the sales price.

55 (b) A title company or other person satisfies the requirement of Subsection (2)(a) by
56 timely transmitting to the appraisal trust a copy of the completed settlement statement
57 applicable to the real property sale.

58 (3) (a) The appraisal trust may share information it receives under this section with:

59 (i) assessors of counties of the state;

60 (ii) the State Tax Commission; and

61 (iii) the Utah Association of Realtors.

62 (b) Except as provided in Subsection (3)(a), the appraisal trust may not disclose any

63 information it receives under this section.

64 (4) (a) Except as provided in Subsections (4)(b) and (c), a county assessor, the State
65 Tax Commission, and the Utah Association of Realtors may not disclose any information
66 received from the appraisal trust under this section.

67 (b) (i) A county assessor may disclose information received from the appraisal trust
68 under this section if:

69 (A) the assessor discloses the information to a property owner challenging the
70 assessor's assessment;

71 (B) the assessor used the information as a basis for the amount of the assessor's
72 challenged assessment of the property; and

73 (C) the property owner to whom the information is disclosed agrees not to disclose the
74 information.

75 (ii) Except as provided in Subsection (4)(c), a property owner who receives
76 information from a county assessor under Subsection (4)(b)(i) that the county assessor received
77 from the appraisal trust may not disclose that information.

78 (c) Subsections (4)(a) and (4)(b)(ii) do not prohibit the disclosure of information
79 received from the appraisal trust under this section if the information was also lawfully
80 received from an independent source.

81 (5) A person who discloses information received under this section in violation of
82 Subsection (3) or (4) is subject to a fine of not more than \$750.

83 Section 2. Section **63G-2-103** is amended to read:

84 **63G-2-103. Definitions.**

85 As used in this chapter:

86 (1) "Audit" means:

87 (a) a systematic examination of financial, management, program, and related records
88 for the purpose of determining the fair presentation of financial statements, adequacy of
89 internal controls, or compliance with laws and regulations; or

90 (b) a systematic examination of program procedures and operations for the purpose of
91 determining their effectiveness, economy, efficiency, and compliance with statutes and
92 regulations.

93 (2) "Chronological logs" mean the regular and customary summary records of law

94 enforcement agencies and other public safety agencies that show:

95 (a) the time and general nature of police, fire, and paramedic calls made to the agency;

96 and

97 (b) any arrests or jail bookings made by the agency.

98 (3) "Classification," "classify," and their derivative forms mean determining whether a
99 record series, record, or information within a record is public, private, controlled, protected, or
100 exempt from disclosure under Subsection 63G-2-201(3)(b).

101 (4) (a) "Computer program" means:

102 (i) a series of instructions or statements that permit the functioning of a computer
103 system in a manner designed to provide storage, retrieval, and manipulation of data from the
104 computer system; and

105 (ii) any associated documentation and source material that explain how to operate the
106 computer program.

107 (b) "Computer program" does not mean:

108 (i) the original data, including numbers, text, voice, graphics, and images;

109 (ii) analysis, compilation, and other manipulated forms of the original data produced by
110 use of the program; or

111 (iii) the mathematical or statistical formulas, excluding the underlying mathematical
112 algorithms contained in the program, that would be used if the manipulated forms of the
113 original data were to be produced manually.

114 (5) (a) "Contractor" means:

115 (i) any person who contracts with a governmental entity to provide goods or services
116 directly to a governmental entity; or

117 (ii) any private, nonprofit organization that receives funds from a governmental entity.

118 (b) "Contractor" does not mean a private provider.

119 (6) "Controlled record" means a record containing data on individuals that is controlled
120 as provided by Section 63G-2-304.

121 (7) "Designation," "designate," and their derivative forms mean indicating, based on a
122 governmental entity's familiarity with a record series or based on a governmental entity's
123 review of a reasonable sample of a record series, the primary classification that a majority of
124 records in a record series would be given if classified and the classification that other records

125 typically present in the record series would be given if classified.

126 (8) "Elected official" means each person elected to a state office, county office,
127 municipal office, school board or school district office, local district office, or special service
128 district office, but does not include judges.

129 (9) "Explosive" means a chemical compound, device, or mixture:

130 (a) commonly used or intended for the purpose of producing an explosion; and

131 (b) that contains oxidizing or combustive units or other ingredients in proportions,
132 quantities, or packing so that:

133 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the
134 compound or mixture may cause a sudden generation of highly heated gases; and

135 (ii) the resultant gaseous pressures are capable of:

136 (A) producing destructive effects on contiguous objects; or

137 (B) causing death or serious bodily injury.

138 (10) "Government audit agency" means any governmental entity that conducts an audit.

139 (11) (a) "Governmental entity" means:

140 (i) executive department agencies of the state, the offices of the governor, lieutenant
141 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,
142 the Board of Examiners, the National Guard, the Career Service Review Board, the State Board
143 of Education, the State Board of Regents, and the State Archives;

144 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal
145 Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative
146 committees, except any political party, group, caucus, or rules or sifting committee of the
147 Legislature;

148 (iii) courts, the Judicial Council, the Office of the Court Administrator, and similar
149 administrative units in the judicial branch;

150 (iv) any state-funded institution of higher education or public education; or

151 (v) any political subdivision of the state, but, if a political subdivision has adopted an
152 ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this
153 chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or
154 as specified in any other section of this chapter that specifically refers to political subdivisions.

155 (b) "Governmental entity" also means every office, agency, board, bureau, committee,

156 department, advisory board, or commission of an entity listed in Subsection (11)(a) that is
157 funded or established by the government to carry out the public's business.

158 (12) "Gross compensation" means every form of remuneration payable for a given
159 period to an individual for services provided including salaries, commissions, vacation pay,
160 severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any
161 similar benefit received from the individual's employer.

162 (13) "Individual" means a human being.

163 (14) (a) "Initial contact report" means an initial written or recorded report, however
164 titled, prepared by peace officers engaged in public patrol or response duties describing official
165 actions initially taken in response to either a public complaint about or the discovery of an
166 apparent violation of law, which report may describe:

167 (i) the date, time, location, and nature of the complaint, the incident, or offense;

168 (ii) names of victims;

169 (iii) the nature or general scope of the agency's initial actions taken in response to the
170 incident;

171 (iv) the general nature of any injuries or estimate of damages sustained in the incident;

172 (v) the name, address, and other identifying information about any person arrested or
173 charged in connection with the incident; or

174 (vi) the identity of the public safety personnel, except undercover personnel, or
175 prosecuting attorney involved in responding to the initial incident.

176 (b) Initial contact reports do not include follow-up or investigative reports prepared
177 after the initial contact report. However, if the information specified in Subsection (14)(a)
178 appears in follow-up or investigative reports, it may only be treated confidentially if it is
179 private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

180 (15) "Legislative body" means the Legislature.

181 (16) "Notice of compliance" means a statement confirming that a governmental entity
182 has complied with a records committee order.

183 (17) "Person" means:

184 (a) an individual;

185 (b) a nonprofit or profit corporation;

186 (c) a partnership;

187 (d) a sole proprietorship;

188 (e) other type of business organization; or

189 (f) any combination acting in concert with one another.

190 (18) "Private provider" means any person who contracts with a governmental entity to
191 provide services directly to the public.

192 (19) "Private record" means a record containing data on individuals that is private as
193 provided by Section 63G-2-302.

194 (20) "Protected record" means a record that is classified protected as provided by
195 Section 63G-2-305.

196 (21) "Public record" means a record that is not private, controlled, or protected and that
197 is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

198 (22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film,
199 card, tape, recording, electronic data, or other documentary material regardless of physical form
200 or characteristics:

201 (i) that is prepared, owned, received, or retained by a governmental entity or political
202 subdivision; and

203 (ii) where all of the information in the original is reproducible by photocopy or other
204 mechanical or electronic means.

205 (b) "Record" does not mean:

206 (i) a personal note or personal communication prepared or received by an employee or
207 officer of a governmental entity in the employee's or officer's private capacity;

208 (ii) a temporary draft or similar material prepared for the originator's personal use or
209 prepared by the originator for the personal use of an individual for whom the originator is
210 working;

211 (iii) material that is legally owned by an individual in the individual's private capacity;

212 (iv) material to which access is limited by the laws of copyright or patent unless the
213 copyright or patent is owned by a governmental entity or political subdivision;

214 (v) proprietary software;

215 (vi) junk mail or a commercial publication received by a governmental entity or an
216 official or employee of a governmental entity;

217 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections

- 218 of a library open to the public;
- 219 (viii) material that is cataloged, indexed, or inventoried and contained in the collections
220 of a library open to the public, regardless of physical form or characteristics of the material;
- 221 (ix) a daily calendar or other personal note prepared by the originator for the
222 originator's personal use or for the personal use of an individual for whom the originator is
223 working;
- 224 (x) a computer program that is developed or purchased by or for any governmental
225 entity for its own use;
- 226 (xi) a note or internal memorandum prepared as part of the deliberative process by:
- 227 (A) a member of the judiciary;
- 228 (B) an administrative law judge;
- 229 (C) a member of the Board of Pardons and Parole; or
- 230 (D) a member of any other body charged by law with performing a quasi-judicial
231 function;
- 232 (xii) a telephone number or similar code used to access a mobile communication
233 device that is used by an employee or officer of a governmental entity, provided that the
234 employee or officer of the governmental entity has designated at least one business telephone
235 number that is a public record as provided in Section 63G-2-301;
- 236 (xiii) information provided by the Public Employees' Benefit and Insurance Program,
237 created in Section 49-20-103, to a county to enable the county to calculate the amount to be
238 paid to a health care provider under Subsection 17-50-319(2)(b)(ii); [or]
- 239 (xiv) information that an owner of unimproved property provides to a local entity as
240 provided in Section 11-42-205[-]; or
- 241 (xv) any document or information:
- 242 (A) provided to the Multicounty Appraisal Trust under Section 57-1-1.5; or
- 243 (B) that the Multicounty Appraisal Trust shares under that section.
- 244 (23) "Record series" means a group of records that may be treated as a unit for
245 purposes of designation, description, management, or disposition.
- 246 (24) "Records committee" means the State Records Committee created in Section
247 63G-2-501.
- 248 (25) "Records officer" means the individual appointed by the chief administrative

249 officer of each governmental entity, or the political subdivision to work with state archives in
250 the care, maintenance, scheduling, designation, classification, disposal, and preservation of
251 records.

252 (26) "Schedule," "scheduling," and their derivative forms mean the process of
253 specifying the length of time each record series should be retained by a governmental entity for
254 administrative, legal, fiscal, or historical purposes and when each record series should be
255 transferred to the state archives or destroyed.

256 (27) "Sponsored research" means research, training, and other sponsored activities as
257 defined by the federal Executive Office of the President, Office of Management and Budget:

258 (a) conducted:

259 (i) by an institution within the state system of higher education defined in Section
260 53B-1-102; and

261 (ii) through an office responsible for sponsored projects or programs; and

262 (b) funded or otherwise supported by an external:

263 (i) person that is not created or controlled by the institution within the state system of
264 higher education; or

265 (ii) federal, state, or local governmental entity.

266 (28) "State archives" means the Division of Archives and Records Service created in
267 Section 63A-12-101.

268 (29) "State archivist" means the director of the state archives.

269 (30) "Summary data" means statistical records and compilations that contain data
270 derived from private, controlled, or protected information but that do not disclose private,
271 controlled, or protected information.

272 **Section 3. Effective date.**

273 This bill takes effect January 1, 2011, if the amendments to the Utah Constitution
274 proposed by H.J.R. _____, Joint Resolution Prohibiting Property Transfer Tax, 2010 General
275 Session, are passed by the Legislature and approved by a majority of those voting on the
276 proposal at the regular general election held in 2010.