

Superseded 5/10/2016

61-2c-401 Investigations.

- (1) The division may investigate or cause to be investigated the actions of:
 - (a)
 - (i) a licensee;
 - (ii) a person required to be licensed under this chapter; or
 - (iii) the following with respect to an entity that is a licensee or an entity required to be licensed under this chapter:
 - (A) a manager;
 - (B) a managing partner;
 - (C) a director;
 - (D) an executive officer; or
 - (E) an individual who performs a function similar to an individual listed in this Subsection (1)(a)(iii);
 - (b)
 - (i) an applicant for licensure or renewal of licensure under this chapter; or
 - (ii) the following with respect to an entity that has applied for a license or renewal of licensure under this chapter:
 - (A) a manager;
 - (B) a managing partner;
 - (C) a director;
 - (D) an executive officer; or
 - (E) an individual who performs a function similar to an individual listed in this Subsection (1)(b)(ii); or
 - (c) a person who transacts the business of residential mortgage loans within this state.
- (2) In conducting investigations, records inspections, and adjudicative proceedings, the division may:
 - (a) administer an oath or affirmation;
 - (b) subpoena witnesses and evidence;
 - (c) take evidence;
 - (d) require the production of a record or information relevant to an investigation; and
 - (e) serve a subpoena by certified mail.
- (3) A failure to respond to a request by the division in an investigation authorized under this chapter is considered as a separate violation of this chapter, including:
 - (a) failing to respond to a subpoena;
 - (b) withholding evidence; or
 - (c) failing to produce a record.
- (4) The division may inspect and copy a record related to the business of residential mortgage loans by a licensee under this chapter, regardless of whether the record is maintained at a business location in Utah, in conducting:
 - (a) investigations of complaints; or
 - (b) inspections of the record required to be maintained under:
 - (i) this chapter; or
 - (ii) rules adopted by the division under this chapter.
- (5)
 - (a) If a licensee maintains a record required by this chapter and the rules adopted by the division under this chapter outside Utah, the licensee is responsible for all reasonable costs, including reasonable travel costs, incurred by the division in inspecting the record.

- (b) Upon receipt of notification from the division that a record maintained outside Utah is to be examined in connection with an investigation or an examination, the licensee shall deposit with the division a deposit of \$500 to cover the division's expenses in connection with the examination of the record.
- (c) If the deposit described in Subsection (5)(b) is insufficient to meet the estimated costs and expenses of examination of the record, the licensee shall make an additional deposit to cover the estimated costs and expenses of the division.
- (d)
 - (i) A deposit under this Subsection (5) shall be deposited in the General Fund as a dedicated credit to be used by the division under Subsection (5)(a).
 - (ii) The division, with the concurrence of the executive director, may use a deposit as a dedicated credit for the records inspection costs under Subsection (5)(a).
 - (iii) A deposit under this Subsection (5) shall be refunded to the licensee to the extent it is not used, together with an itemized statement from the division of all amounts it has used.
- (6) Failure to deposit with the division a deposit required to cover the costs of examination of a record that is maintained outside Utah shall result in automatic suspension of a license until the deposit is made.
- (7)
 - (a) If a person is found to have violated this chapter or a rule made under this chapter, the person shall pay the costs incurred by the division to copy a record required under this chapter, including the costs incurred to copy an electronic record in a universally readable format.
 - (b) If a person fails to pay the costs described in Subsection (7)(a) when due, the person's license or certification is automatically suspended:
 - (i) beginning the day on which the payment of costs is due; and
 - (ii) ending the day on which the costs are paid.