

Effective 5/12/2015

Superseded 5/10/2016

61-2f-202 Exempt persons and transactions.

- (1)
 - (a) Except as provided in Subsection (1)(b), a license under this chapter is not required for:
 - (i) an individual who as owner or lessor performs an act described in Subsection 61-2f-102(18) with reference to real estate owned or leased by that individual;
 - (ii) a regular salaried employee of the owner or lessor of real estate who, with reference to nonresidential real estate owned or leased by the employer, performs an act described in Subsection 61-2f-102(18)(a) or (b);
 - (iii) a regular salaried employee of the owner of real estate who performs property management services with reference to real estate owned by the employer, except that the employee may only manage real estate for one employer;
 - (iv) an individual who performs property management services for the apartments at which that individual resides in exchange for free or reduced rent on that individual's apartment;
 - (v) a regular salaried employee of a condominium homeowners' association who manages real estate subject to the declaration of condominium that established the condominium homeowners' association, except that the employee may only manage real estate for one condominium homeowners' association; and
 - (vi) a regular salaried employee of a licensed property management company or real estate brokerage who performs support services, as prescribed by rule, for the property management company or real estate brokerage.
 - (b) Subsection (1)(a) does not exempt from licensing:
 - (i) an employee engaged in the sale of real estate regulated under:
 - (A) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act; or
 - (B) Title 57, Chapter 19, Timeshare and Camp Resort Act;
 - (ii) an employee engaged in the sale of cooperative interests regulated under Title 57, Chapter 23, Real Estate Cooperative Marketing Act; or
 - (iii) an individual whose interest as an owner or lessor is obtained by that individual or transferred to that individual for the purpose of evading the application of this chapter, and not for another legitimate business reason.
- (2) A license under this chapter is not required for:
 - (a) an isolated transaction or service by an individual holding a duly executed power of attorney from a property owner;
 - (b) services rendered by an attorney admitted to practice law in this state in performing the attorney's duties as an attorney;
 - (c) a receiver, trustee in bankruptcy, administrator, executor, or an individual acting under order of a court;
 - (d) a trustee or employee of a trustee under a deed of trust or a will;
 - (e) a public utility, officer of a public utility, or regular salaried employee of a public utility, unless performance of an act described in Subsection 61-2f-102(18) is in connection with the sale, purchase, lease, or other disposition of real estate or investment in real estate unrelated to the principal business activity of that public utility;
 - (f) a regular salaried employee or authorized agent working under the oversight of the Department of Transportation when performing an act on behalf of the Department of Transportation in connection with one or more of the following:
 - (i) the acquisition of real estate pursuant to Section 72-5-103;
 - (ii) the disposal of real estate pursuant to Section 72-5-111;

- (iii) services that constitute property management; or
- (iv) the leasing of real estate; and
- (g) a regular salaried employee of a county, city, or town when performing an act on behalf of the county, city, or town:
 - (i) in accordance with:
 - (A) if a regular salaried employee of a city or town:
 - (I) Title 10, Utah Municipal Code; or
 - (II) Title 11, Cities, Counties, and Local Taxing Units; and
 - (B) if a regular salaried employee of a county:
 - (I) Title 11, Cities, Counties, and Local Taxing Units; and
 - (II) Title 17, Counties; and
 - (ii) in connection with one or more of the following:
 - (A) the acquisition of real estate, including by eminent domain;
 - (B) the disposal of real estate;
 - (C) services that constitute property management; or
 - (D) the leasing of real estate.
- (3) A license under this chapter is not required for an individual registered to act as a broker-dealer, agent, or investment adviser under the Utah and federal securities laws in the sale or the offer for sale of real estate if:
 - (a)
 - (i) the real estate is a necessary element of a "security" as that term is defined by the Securities Act of 1933 and the Securities Exchange Act of 1934; and
 - (ii) the security is registered for sale in accordance with:
 - (A) the Securities Act of 1933; or
 - (B) Title 61, Chapter 1, Utah Uniform Securities Act; or
 - (b)
 - (i) it is a transaction in a security for which a Form D, described in 17 C.F.R. Sec. 239.500, has been filed with the Securities and Exchange Commission pursuant to Regulation D, Rule 506, 17 C.F.R. Sec. 230.506; and
 - (ii) the selling agent and the purchaser are not residents of this state.
- (4) As used in this section, "owner" does not include:
 - (a) a person who holds an option to purchase real property;
 - (b) a mortgagee;
 - (c) a beneficiary under a deed of trust;
 - (d) a trustee under a deed of trust; or
 - (e) a person who owns or holds a claim that encumbers any real property or an improvement to the real property.