

61-2e-203 Criminal background check -- Conditional registration -- Changes in ownership or controlling person.

- (1) The division shall request the Department of Public Safety to complete a Federal Bureau of Investigation criminal background check for an individual described in Subsection 61-2e-202(2)(e) or (g) through the national criminal history system or any successor system.
- (2)
 - (a) The entity filing the application under Section 61-2e-202 shall pay the cost of the criminal background check and the fingerprinting.
 - (b) Money paid to the division by an entity for the cost of a criminal background check is nonlapsing.
- (3)
 - (a) A registration issued under Section 61-2e-202 is conditional, pending completion of a criminal background check.
 - (b)
 - (i) A registration shall be immediately and automatically revoked if a criminal background check discloses that an individual described in Subsection 61-2e-202(2)(e) or (g) fails to accurately disclose a criminal history involving:
 - (A) the appraisal industry;
 - (B) the appraisal management industry; or
 - (C) a felony conviction on the basis of an allegation of fraud, misrepresentation, or deceit.
 - (ii) If a criminal background check discloses that an individual described in Subsection 61-2e-202(2)(e) or (g) fails to accurately disclose a criminal history other than that described in Subsection (3)(b)(i), the division shall review the application, and in accordance with rules made by the division pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may:
 - (A) place a condition on a registration;
 - (B) place a restriction on a registration;
 - (C) revoke a registration; or
 - (D) refer the application to the board for a decision.
 - (c) An entity whose conditional registration is revoked under Subsection (3)(b)(i) or whose license is conditioned, restricted, or revoked under Subsection (3)(b)(ii) is entitled to a post-revocation hearing conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, to challenge the revocation.
 - (d) The board shall decide whether relief from the revocation of a registration under this Subsection (3) will be granted, except that relief from an automatic revocation under Subsection (3)(b)(i) may be granted only if:
 - (i) the criminal history upon which the revocation is based:
 - (A) did not occur; or
 - (B) is the criminal history of another individual;
 - (ii)
 - (A) the revocation is based on a failure to accurately disclose a criminal history; and
 - (B) the entity has a reasonable good faith belief at the time of application that there is no criminal history to be disclosed; or
 - (iii) the division fails to follow the prescribed procedure for the revocation.
 - (e) The board may delegate to the division the authority to conduct a post-revocation hearing under Subsection (3)(d).

- (f) If a registration is revoked or a revocation under this Subsection (3) is upheld after a post-revocation hearing, the entity may not apply for a new registration until at least 12 months after the day on which the registration is revoked.
- (4)
 - (a) An appraisal management company shall comply with this Subsection (4) if there is a change in:
 - (i) an individual who owns 10% or more of the entity; or
 - (ii) the controlling person designated as the contact as required by Section 61-2e-201.
 - (b) If there is a change in an individual described in Subsection (4)(a), within 30 days of the day on which the change occurs, the appraisal management company shall file with the division:
 - (i) the individual's name, address, and contact information;
 - (ii) a statement of whether or not the individual has had a license or certificate to engage in an act related to a real estate or mortgage transaction refused, denied, canceled, or revoked in this state or in another state; and
 - (iii)
 - (A) fingerprint cards in a form acceptable to the division at the time the registration application is filed; and
 - (B) consent to a criminal background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

Amended by Chapter 289, 2011 General Session

Amended by Chapter 342, 2011 General Session