

Effective 5/10/2016

61-2f-103 Real Estate Commission.

- (1) There is created within the division a Real Estate Commission. The commission shall:
 - (a) subject to concurrence by the division and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for the administration of this chapter that are not inconsistent with this chapter, including:
 - (i) licensing of:
 - (A) a principal broker;
 - (B) an associate broker; and
 - (C) a sales agent;
 - (ii) registration of:
 - (A) an entity; and
 - (B) a branch office;
 - (iii) prelicensing and postlicensing education curricula;
 - (iv) examination procedures;
 - (v) the certification and conduct of:
 - (A) a real estate school;
 - (B) a course provider; or
 - (C) an instructor;
 - (vi) proper handling of money received by a licensee under this chapter;
 - (vii) brokerage office procedures and recordkeeping requirements;
 - (viii) property management;
 - (ix) standards of conduct for a licensee under this chapter; and
 - (x) if the commission, with the concurrence of the division, determines necessary, a rule as provided in Subsection 61-2f-306(3) regarding a legal form;
 - (b) establish, with the concurrence of the division, a fee provided for in this chapter, except a fee imposed under Part 5, Real Estate Education, Research, and Recovery Fund Act;
 - (c) conduct an administrative hearing not delegated by the commission to an administrative law judge or the division relating to the:
 - (i) licensing of an applicant;
 - (ii) conduct of a licensee;
 - (iii) the certification or conduct of a real estate school, course provider, or instructor regulated under this chapter; or
 - (iv) violation of this chapter by any person;
 - (d) with the concurrence of the director, impose a sanction as provided in Section 61-2f-404;
 - (e) advise the director on the administration and enforcement of a matter affecting the division and the real estate sales and property management industries;
 - (f) advise the director on matters affecting the division budget;
 - (g) advise and assist the director in conducting real estate seminars; and
 - (h) perform other duties as provided by this chapter.
- (2)
 - (a) Except as provided in Subsection (2)(b), a state entity may not, without the concurrence of the commission, make a rule that changes the rights, duties, or obligations of buyers, sellers, or persons licensed under this chapter in relation to a real estate transaction between private parties.
 - (b) Subsection (2)(a) does not apply to a rule made:
 - (i) under Title 31A, Insurance Code, or Title 7, Financial Institutions Act; or

- (ii) by the Department of Commerce or any division or other rulemaking body within the Department of Commerce.
- (3)
- (a) The commission shall be comprised of five members appointed by the governor and approved by the Senate.
 - (b) Four of the commission members shall:
 - (i) have at least five years' experience in the real estate business; and
 - (ii) hold an active principal broker, associate broker, or sales agent license.
 - (c) One commission member shall be a member of the general public.
 - (d) The governor may not appoint a commission member described in Subsection (3)(b) who, at the time of appointment, resides in the same county in the state as another commission member.
 - (e) At least one commission member described in Subsection (3)(b) shall at the time of an appointment reside in a county that is not a county of the first or second class.
- (4)
- (a) Except as required by Subsection (4)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a four-year term ending June 30.
 - (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.
 - (c) Upon the expiration of the term of a member of the commission, the member of the commission shall continue to hold office until a successor is appointed and qualified.
 - (d) A commission member may not serve more than two consecutive terms.
 - (e) Members of the commission shall annually select one member to serve as chair.
- (5) When a vacancy occurs in the membership for any reason, the governor, with the consent of the Senate, shall appoint a replacement for the unexpired term.
- (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (7)
- (a) The commission shall meet at least monthly.
 - (b) The director may call additional meetings:
 - (i) at the director's discretion;
 - (ii) upon the request of the chair; or
 - (iii) upon the written request of three or more commission members.
- (8) Three members of the commission constitute a quorum for the transaction of business.

Amended by Chapter 25, 2016 General Session
Amended by Chapter 381, 2016 General Session