

Superseded 5/12/2015

63G-12-402 Receipt of state, local, or federal public benefits -- Verification -- Exceptions -- Fraudulently obtaining benefits -- Criminal penalties -- Annual report.

- (1)
 - (a) Except as provided in Subsection (3) or when exempted by federal law, an agency or political subdivision of the state shall verify the lawful presence in the United States of an individual at least 18 years of age who applies for:
 - (i) a state or local public benefit as defined in 8 U.S.C. Sec. 1621; or
 - (ii) a federal public benefit as defined in 8 U.S.C. Sec. 1611, that is administered by an agency or political subdivision of this state.
 - (b) For purpose of a license issued under Title 58, Chapter 55, Utah Construction Trades Licensing Act, to an applicant that is an unincorporated entity, the Department of Commerce shall verify in accordance with this Subsection (1) the lawful presence in the United States of each individual who:
 - (i) owns an interest in the contractor that is an unincorporated entity; and
 - (ii) engages, or will engage, in a construction trade in Utah as an owner of the contractor described in Subsection (1)(b)(i).
- (2) This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.
- (3) Verification of lawful presence under this section is not required for:
 - (a) any purpose for which lawful presence in the United States is not restricted by law, ordinance, or regulation;
 - (b) assistance for health care items and services that:
 - (i) are necessary for the treatment of an emergency medical condition, as defined in 42 U.S.C. Sec. 1396b(v)(3), of the individual involved; and
 - (ii) are not related to an organ transplant procedure;
 - (c) short-term, noncash, in-kind emergency disaster relief;
 - (d) public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not the symptoms are caused by the communicable disease;
 - (e) programs, services, or assistance such as soup kitchens, crisis counseling and intervention, and short-term shelter, specified by the United States Attorney General, in the sole and unreviewable discretion of the United States Attorney General after consultation with appropriate federal agencies and departments, that:
 - (i) deliver in-kind services at the community level, including through public or private nonprofit agencies;
 - (ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the income or resources of the individual recipient; and
 - (iii) are necessary for the protection of life or safety;
 - (f) the exemption for paying the nonresident portion of total tuition as set forth in Section 53B-8-106;
 - (g) an applicant for a license under Section 61-1-4, if the applicant:
 - (i) is registered with the Financial Industry Regulatory Authority; and
 - (ii) files an application with the state Division of Securities through the Central Registration Depository;
 - (h) a state public benefit to be given to an individual under Title 49, Utah State Retirement and Insurance Benefit Act;
 - (i) a home loan that will be insured, guaranteed, or purchased by:

- (i) the Federal Housing Administration, the Veterans Administration, or any other federal agency; or
- (ii) an enterprise as defined in 12 U.S.C. Sec. 4502;
- (j) a subordinate loan or a grant that will be made to an applicant in connection with a home loan that does not require verification under Subsection (3)(i);
- (k) an applicant for a license issued by the Department of Commerce or individual described in Subsection (1)(b), if the applicant or individual provides the Department of Commerce:
 - (i) certification, under penalty of perjury, that the applicant or individual is:
 - (A) a United States citizen;
 - (B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or
 - (C) lawfully present in the United States; and
 - (ii)
 - (A) the number assigned to a driver license or identification card issued under Title 53, Chapter 3, Uniform Driver License Act; or
 - (B) the number assigned to a driver license or identification card issued by a state other than Utah if, as part of issuing the driver license or identification card, the state verifies an individual's lawful presence in the United States; and
- (l) an applicant for:
 - (i) a Regents' scholarship described in Section 53B-8-109; or
 - (ii) a New Century scholarship described in Section 53B-8-105.
- (4)
 - (a) An agency or political subdivision required to verify the lawful presence in the United States of an applicant under this section shall require the applicant to certify under penalty of perjury that:
 - (i) the applicant is a United States citizen; or
 - (ii) the applicant is:
 - (A) a qualified alien as defined in 8 U.S.C. Sec. 1641; and
 - (B) lawfully present in the United States.
 - (b) The certificate required under this Subsection (4) shall include a statement advising the signer that providing false information subjects the signer to penalties for perjury.
- (5) An agency or political subdivision shall verify a certification required under Subsection (4)(a)(ii) through the federal SAVE program.
- (6)
 - (a) An individual who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in a certification under Subsection (3)(k) or (4) is subject to the criminal penalties applicable in this state for:
 - (i) making a written false statement under Subsection 76-8-504(2); and
 - (ii) fraudulently obtaining:
 - (A) public assistance program benefits under Sections 76-8-1205 and 76-8-1206; or
 - (B) unemployment compensation under Section 76-8-1301.
 - (b) If the certification constitutes a false claim of United States citizenship under 18 U.S.C. Sec. 911, the agency or political subdivision shall file a complaint with the United States Attorney General for the applicable district based upon the venue in which the application was made.
 - (c) If an agency or political subdivision receives verification that a person making an application for a benefit, service, or license is not a qualified alien, the agency or political subdivision shall provide the information to the Office of the Attorney General unless prohibited by federal mandate.
- (7) An agency or political subdivision may adopt variations to the requirements of this section that:

- (a) clearly improve the efficiency of or reduce delay in the verification process; or
 - (b) provide for adjudication of unique individual circumstances where the verification procedures in this section would impose an unusual hardship on a legal resident of Utah.
- (8) It is unlawful for an agency or a political subdivision of this state to provide a state, local, or federal benefit, as defined in 8 U.S.C. Sec. 1611 and 1621, in violation of this section.
- (9) A state agency or department that administers a program of state or local public benefits shall:
- (a) provide an annual report to the governor, the president of the Senate, and the speaker of the House regarding its compliance with this section; and
 - (b)
 - (i) monitor the federal SAVE program for application verification errors and significant delays;
 - (ii) provide an annual report on the errors and delays to ensure that the application of the federal SAVE program is not erroneously denying a state or local benefit to a legal resident of the state; and
 - (iii) report delays and errors in the federal SAVE program to the United States Department of Homeland Security.