

1 **REAL ESTATE AMENDMENTS**

2 2005 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Gordon E. Snow**

5

LONG TITLE

6 **General Description:**

7 This bill modifies Real Estate provisions to address business license fees of political
8 subdivisions.
9

10 **Highlighted Provisions:**

11 This bill:

12 ▶ restricts the imposition of a business license fee to circumstances where the
13 principal broker maintains a place of business within the jurisdiction of a political
14 subdivision; and

15 ▶ makes technical changes.

16 **Monies Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **61-2-9**, as last amended by Chapter 129, Laws of Utah 2004

23

Be it enacted by the Legislature of the state of Utah:

24 Section 1. Section **61-2-9** is amended to read:

25 **61-2-9. Examination and license fees -- Period of license -- Background check --**
26 **Renewal of licenses -- Education requirements -- Activation of inactive licenses --**
27



28 **Reinstatement -- Licenses of firm, partnership, or association -- Miscellaneous fees.**

29 (1) (a) Upon filing an application for a principal broker, associate broker, or sales agent
30 license examination, the applicant shall pay a nonrefundable fee as determined by the
31 commission with the concurrence of the division under Section 63-38-3.2 for admission to the
32 examination.

33 (b) A principal broker, associate broker, or sales agent applicant shall pay a
34 nonrefundable fee as determined by the commission with the concurrence of the division under
35 Section 63-38-3.2 for issuance of an initial license or license renewal.

36 (c) Each license issued under this [~~subsection~~] Subsection (1) shall be issued for a
37 period of not less than two years as determined by the division with the concurrence of the
38 commission.

39 (d) (i) Any new sales agent applicant shall:

40 (A) submit fingerprint cards in a form acceptable to the division at the time the license
41 application is filed; and [~~shall~~]

42 (B) consent to a fingerprint background check by the Utah Bureau of Criminal
43 Identification and the Federal Bureau of Investigation regarding the application.

44 (ii) The division shall request the Department of Public Safety to complete a Federal
45 Bureau of Investigation criminal background check for each new sales agent applicant through
46 the national criminal history system (NCIC) or any successor system.

47 (iii) The cost of the background check and the fingerprinting shall be borne by the
48 applicant.

49 (e) (i) Any new sales agent license issued under this section shall be conditional,
50 pending completion of the criminal background check. If the criminal background check
51 discloses the applicant has failed to accurately disclose a criminal history, the license shall be
52 immediately and automatically revoked.

53 (ii) Any person whose conditional license has been revoked under Subsection (1)(e)(i)
54 shall be entitled to a postrevocation hearing to challenge the revocation. The hearing shall be
55 conducted in accordance with Title 63, Chapter 46b, Administrative Procedures Act.

56 (2) (a) (i) A license expires if it is not renewed on or before its expiration date.

57 (ii) As [~~as~~] a condition of renewal, each active licensee shall demonstrate competence:

58 (A) by viewing an approved real estate education video program and completing a

59 supplementary workbook; or

60 (B) by completing 12 hours of professional education approved by the division and
61 commission within each two-year renewal period.

62 (iii) The division with the concurrence of the commission shall certify education which
63 may include:

64 (A) state conventions[;];

65 (B) home study courses[;];

66 (C) video courses[;]; and

67 (D) closed circuit television courses.

68 (iv) The commission with concurrence of the division may exempt a licensee from this
69 education requirement for a period not to exceed four years:

70 (A) upon a finding of reasonable cause, including military service; and

71 (B) under conditions established by rule made in accordance with Title 63, Chapter
72 46a, Utah Administrative Rulemaking Act.

73 (b) For a period of 30 days after the expiration date, a license may be reinstated upon:

74 (i) payment of a renewal fee and a late fee determined by the commission with the
75 concurrence of the division under Section 63-38-3.2; and [upon]

76 (ii) providing proof acceptable to the division and the commission of the licensee
77 having:

78 (A) completed the hours of education; or

79 (B) demonstrated competence as required under Subsection (2)(a).

80 (c) After this 30-day period, and until six months after the expiration date, the license
81 may be reinstated by:

82 (i) paying a renewal fee and a late fee determined by the commission with the
83 concurrence of the division under Section 63-38-3.2;

84 (ii) providing to the division proof of satisfactory completion of 12 hours of continuing
85 education:

86 (A) in addition to the requirements for a timely renewal; and

87 (B) on a subject determined by the commission by rule made in accordance with Title
88 63, Chapter 46a, Utah Administrative Rulemaking Act; and

89 (iii) providing proof acceptable to the division and the commission of the licensee

90 having:

91 (A) completed the hours of education; or

92 (B) demonstrated competence as required under Subsection (2)(a).

93 (d) A person who does not renew ~~[his]~~ that person's license within six months after the
94 expiration date shall be relicensed as prescribed for an original application.

95 (3) (a) As a condition for the activation of an inactive license that was in an inactive
96 status at the time of the licensee's most recent renewal, the licensee shall supply the division
97 with proof of:

98 (i) successful completion of the respective sales agent or broker licensing examination
99 within six months prior to applying to activate the license; or

100 (ii) the successful completion of 12 hours of continuing education that the licensee
101 would have been required to complete under Subsection (2)(a) if the license had been on active
102 status at the time of the licensee's most recent renewal.

103 (b) The commission may, in accordance with Title 63, Chapter 46a, Utah
104 Administrative Rulemaking Act, establish by rule:

105 (i) the nature or type of continuing education required for reactivation of a license; and

106 (ii) how long prior to reactivation the continuing education must have been completed.

107 (4) (a) A principal broker license may be granted to a corporation, partnership, or
108 association if the corporation, partnership, or association has affiliated with it an individual
109 who:

110 (i) has qualified as a principal broker under the terms of this chapter~~;~~ and ~~[who]~~

111 (ii) serves in the capacity of a principal broker.

112 (b) Application for the license shall be made in accordance with the rules adopted by
113 the division with the concurrence of the commission.

114 (5) The division may charge and collect reasonable fees determined by the commission
115 with the concurrence of the division under Section 63-38-3.2 to cover the costs for:

116 (a) issuance of a new or duplicate license;

117 (b) license histories or certifications;

118 (c) certified copies of official documents, orders, and other papers and transcripts;

119 (d) certifying real estate schools, courses, and instructors, the fees for which shall,
120 notwithstanding Section 13-1-2, be deposited in the Real Estate Education, Research, and

121 Recovery Fund; and

122 (e) other duties required by this chapter.

123 (6) If a licensee submits or causes to be submitted a check, draft, or other negotiable
124 instrument to the division for payment of fees, and the check, draft, or other negotiable
125 instrument is dishonored, the transaction for which the payment was submitted is void and will
126 be reversed by the division if payment of the applicable fee is not received in full.

127 (7) (a) The fees under this chapter and the additional license fee for the Real Estate
128 Education, Research, and Recovery Fund under Section 61-2a-4 are in lieu of all other license
129 fees or assessments that might otherwise be imposed or charged by the state or any of its
130 political subdivisions, upon, or as a condition of, the privilege of conducting the business
131 regulated by this chapter, except that a political subdivision within the state may charge a
132 business license fee on a principal broker if the [~~licensee~~] principal broker maintains a place of
133 business within the jurisdiction of the political subdivision.

134 (b) Unless otherwise exempt, each licensee under this chapter is subject to all taxes
135 imposed under Title 59, Revenue and Taxation.

Legislative Review Note
as of 1-31-05 9:57 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0283

Real Estate Amendments

04-Feb-05

12:45 PM

State Impact

No fiscal impact.

Individual and Business Impact

The bill restricts the imposition of a business license fee to circumstances where the principal broker maintains a place of business within the jurisdiction of a political subdivision.

Office of the Legislative Fiscal Analyst