



# UTAH STATE SENATE

UTAH STATE CAPITOL COMPLEX • WEST OFFICE BUILDING, SUITE W115  
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February 9, 2006

Mr. President:

The Business and Labor Committee reports a favorable recommendation on **H.B. 315**, REAL ESTATE AMENDMENTS, by Representative G. Snow, with the following amendments:

1. *Page 1, Lines 12 through 15:*

- 12 This bill: =
- 13 ▶ **modifies exemptions for persons or transactions;**
- 13 ▶ permits a member of the Real Estate Commission to serve two consecutive terms; =
- 14 ▶ **modifies limit on the amount of a civil penalty;**
- 14 ▶ modifies grounds for disciplinary action; and
- 15 ▶ makes technical changes.

2. *Page 1, Lines 21 through 22:*

- 21 AMENDS:
- 21 **61-2-3, as last amended by Chapter 102, Laws of Utah 1996**
- 22 61-2-5.5, as last amended by Chapters 199 and 257, Laws of Utah 2005

3. *Page 1, Line 25:*

- 25 *Be it enacted by the Legislature of the state of Utah:*
- Section 1. Section 61-2-3 is amended to read:**
- 61-2-3. Exempt persons and transactions.**
- (1) (a) Except as provided in Subsection (1)(b), a license under this chapter is not required for:

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(i) any person who as owner or lessor performs the acts described in Subsection 61-2-2 (12) with reference to property owned or leased by that person;

(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 the acts enumerated in Subsections 61-2-2(12)(a) and (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 property for one employer;

(iv) a person who performs property management services for the apartments at which that person resides in exchange for free or reduced rent on that person's apartment;

(v) a regular salaried employee of a condominium homeowners' association who manages real property subject to the declaration of condominium that established the homeowners' association, except that the employee may only manage property for one condominium homeowners' association; and

(vi) a regular salaried employee of a licensed property management company who performs support services, as prescribed by rule, for the property management company.

(b) Subsection (1)(a) does not exempt from licensing:

(i) employees engaged in the sale of properties regulated under §  
(A) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act § and  
(B) Title 57, Chapter 19, Timeshare and Camp Resort Act;

(ii) employees engaged in the sale of cooperative interests regulated under Title 57, Chapter 23, Real Estate Cooperative Marketing Act; or

(iii) any person whose interest as an owner or lessor was obtained by ~~{him}~~ that person or transferred to ~~{him}~~ that person for the purpose of evading the application of this chapter, and not for any other legitimate business reason.

(2) A license under this chapter is not required for:

(a) isolated transactions by persons holding a duly executed power of attorney from the owner;

(b) services rendered by an attorney at law in performing ~~{his}~~ the attorney at law's duties as an attorney at law;

(c) a receiver, trustee in bankruptcy, administrator, executor, or any person acting under order of any court;

(d) a trustee or its employees under a deed of trust or a will; or

(e) any public utility, its officers, or regular salaried employees, unless performance of any of the acts set out in Subsection 61-2-2 (12) is in connection with the sale, purchase, lease, or other disposition

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of real estate or investment in real estate unrelated to the principal business activity of that public utility.

(3) ~~{ (a) Except as provided in Subsection (3)(b), a }~~ A license under this chapter is not required for any person registered to act as a broker-dealer, agent, or investment advisor 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 :

(A) pursuant to the Securities Act of 1933 : or

(B) by 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.

~~{(b) The exemption in Subsection (3)(a) does not apply to exempt or resale transactions-}~~

**Renumber remaining sections accordingly.**

4. *Page 4, Lines 112 through 117:*

112 subpoena is considered as a separate violation of this chapter. The commission, with the  
113 concurrence of the director, may impose a civil penalty in an amount not to exceed  
    ~~{-\$500}~~ \$2,500 per  
114 violation, impose educational requirements, and suspend, revoke, place on probation, or  
    deny  
115 renewal, reinstatement, or reissuance of any license or any certification if at any time the  
116 licensee or certificate holder, whether acting as an agent or on his own account, is found  
    guilty  
117 of:

Respectfully,

Scott K. Jenkins  
Committee Chair

Voting: 8-0-1

3 HB0315.SCI.WPD jcannon/AM PO/AM 2/9/06 6:00 pm

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