

26 including:

- 27 • modifying the definition provisions;
- 28 • addressing when board action is taken with the concurrence of the division;
- 29 • addressing payments to the division that are dishonored;
- 30 • expanding provisions related to criminal histories;
- 31 • allowing the board to delegate to the division certain hearings;
- 32 • providing for the extension of the term of a license;

33 ~~H→ [—•—addressing adherence to standards;] ←H~~

- 34 • modifying prohibited conduct;
- 35 • providing for the payment of certain costs related to investigations;
- 36 • increasing the amount of a civil penalty; and
- 37 • addressing the contents and affect of an order;

38 ▶ modifies the Real Estate Licensing and Practices Act, including:

- 39 • modifying the definition provisions;
- 40 • addressing payments to the division that are dishonored;
- 41 • providing for de novo review in certain circumstances;
- 42 • addressing criminal histories;
- 43 • addressing when the division may extend the term of a license;
- 44 • providing for the enforcement of reporting requirements;
- 45 • addressing exclusive brokerage agreements; and
- 46 • modifying grounds for disciplinary conduct;

47 ▶ renumbers and amends the Real Estate Appraiser Licensing and Certification Act,

48 including:

- 49 • addressing when the board may take action with the concurrence of the division;
- 50 • addressing criminal histories;
- 51 • addressing when the division may extend the term of a license;
- 52 • modifying reinstatement requirements; and
- 53 • allowing the board to delegate certain actions to the division; and

54 ▶ makes technical and conforming amendments.

55 **Money Appropriated in this Bill:**

56 None

- 88           **61-2e-204**, as enacted by Laws of Utah 2009, Chapter 269
- 89           **61-2e-301**, as enacted by Laws of Utah 2009, Chapter 269
- 90    ~~61-2e-302, as enacted by Laws of Utah 2009, Chapter 269~~
- 91           **61-2e-307**, as enacted by Laws of Utah 2009, Chapter 269
- 92           **61-2e-401**, as enacted by Laws of Utah 2009, Chapter 269
- 93           **61-2e-402**, as enacted by Laws of Utah 2009, Chapter 269
- 94           **61-2f-102**, as last amended by Laws of Utah 2010, Chapter 184 and renumbered and
- 95 amended by Laws of Utah 2010, Chapter 379 and last amended by Coordination
- 96 Clause, Laws of Utah 2010, Chapter 379
- 97           **61-2f-105**, as enacted by Laws of Utah 2010, Chapter 379
- 98           **61-2f-202**, as last amended by Laws of Utah 2010, Chapter 184 and renumbered and
- 99 amended by Laws of Utah 2010, Chapter 379
- 100           **61-2f-203**, as renumbered and amended by Laws of Utah 2010, Chapter 379
- 101           **61-2f-204**, as renumbered and amended by Laws of Utah 2010, Chapter 379
- 102           **61-2f-206**, as enacted by Laws of Utah 2010, Chapter 379
- 103           **61-2f-301**, as renumbered and amended by Laws of Utah 2010, Chapter 379
- 104           **61-2f-401**, as last amended by Laws of Utah 2010, Chapter 184 and renumbered and
- 105 amended by Laws of Utah 2010, Chapter 379
- 106           **63A-5-220**, as last amended by Laws of Utah 2010, Chapter 278
- 107           **63A-5-401**, as enacted by Laws of Utah 2008, Chapter 203
- 108           **70D-1-102**, as renumbered and amended by Laws of Utah 2009, Chapter 72
- 109           **72-5-117**, as enacted by Laws of Utah 2008, Chapter 203
- 110           **79-2-403**, as renumbered and amended by Laws of Utah 2009, Chapter 344

111 ENACTS:

112           **61-2g-302**, Utah Code Annotated 1953

113           **61-2g-303**, Utah Code Annotated 1953

114 RENUMBERS AND AMENDS:

115           **61-2g-101**, (Renumbered from 61-2b-1, as last amended by Laws of Utah 1999,

116 Chapter 117)

117           **61-2g-102**, (Renumbered from 61-2b-2, as last amended by Laws of Utah 2010,

118 Chapter 379)

1917 (5) Notwithstanding Subsection (4), the division may extend the term of a license that  
 1918 would expire under Subsection (4) except for the extension if:

1919 (a) (i) the person complies with the requirements of this section to renew the  
 1920 registration; and

1921 (ii) the renewal application remains pending at the time of the extension; or

1922 (b) at the time of the extension, there is pending under this chapter a disciplinary  
 1923 action.

1924 Section 28. Section **61-2e-301** is amended to read:

1925 **61-2e-301. Use of licensed or certified appraisers.**

1926 (1) An appraisal management company required to be registered under this chapter  
 1927 may not enter into an agreement with an appraiser for the performance of a real estate appraisal  
 1928 activity unless the appraiser is licensed or certified in good standing pursuant to Chapter [2b]  
 1929 2g, Real Estate Appraiser Licensing and Certification Act.

1930 (2) (a) An appraisal management company required to be registered under this chapter  
 1931 shall have a system to verify that an individual added to the appraiser panel of the appraisal  
 1932 management company holds a license or certificate in good standing in this state pursuant to  
 1933 Chapter [2b] 2g, Real Estate Appraiser Licensing and Certification Act.

1934 (b) As part of the registration process under Part 2, Registration, an appraisal  
 1935 management company shall biennially provide an explanation of the system described in  
 1936 Subsection (2)(a) in the form prescribed by the division.

1937 ~~H→ [Section 29. Section 61-2e-302 is amended to read:~~

1938 ~~61-2e-302. Adherence to standards:~~

1939 ~~(1) An appraisal management company required to be registered under this chapter~~  
 1940 ~~shall have a system in place to review the work of an appraiser who performs a real estate~~  
 1941 ~~appraisal activity for the appraisal management company on a periodic basis to ensure that a~~  
 1942 ~~real estate appraisal activity is conducted in accordance with applicable appraisal standards:~~

1943 ~~(2) As part of the registration process under Part 2, Registration, an appraisal~~  
 1944 ~~management company shall biennially provide an explanation of the system described in~~  
 1945 ~~Subsection (1) in the form prescribed by the division:~~

1946 ~~(3) The board may make rules, made in accordance with Title 63G, Chapter 3, Utah~~  
 1947 ~~Administrative Rulemaking Act, as necessary to implement the requirements of 15 U.S.C. Sec.~~

1948 ~~1639e(i), except that the rules may not apply to an appraisal management company that is a~~  
 1949 ~~subsidiary owned and controlled by a financial institution regulated by a federal financial~~  
 1950 ~~institution regulatory agency.] ←Ĥ~~

1951 Section ~~Ĥ→~~ [30] 29 ←Ĥ . Section 61-2e-307 is amended to read:

1952 **61-2e-307. Prohibitions related to an appraiser.**

1953 (1) An appraisal management company required to be registered under this chapter, or  
 1954 a controlling person, employee, or agent of the appraisal management company may not  
 1955 influence or attempt to influence the development, reporting, or review of an appraisal through:

1956 (a) coercion;

1957 (b) extortion;

1958 (c) collusion;

1959 (d) compensation;

1960 (e) instruction;

1961 (f) inducement;

1962 (g) intimidation;

1963 (h) bribery; or

1964 (i) any other manner that would constitute undue influence.

1965 (2) A violation of Subsection (1) includes doing one or more of the following for a  
 1966 purpose listed in Subsection (1):

1967 (a) withholding or threatening to withhold timely payment for an appraisal;

1968 (b) withholding or threatening to withhold future business for an appraiser;

1969 (c) taking adverse action or threatening to take adverse action against an appraiser  
 1970 regarding use of the appraiser for a real estate appraisal activity;

1971 (d) expressly or by implication promising future business or increased compensation  
 1972 for an appraiser;

1973 (e) conditioning one or more of the following on the opinion, conclusion, or valuation  
 1974 to be reached, or on a preliminary estimate or opinion requested from an appraiser:

1975 (i) a request for a real estate appraisal activity; or

1976 (ii) the payment of consideration;

1977 (f) requesting that an appraiser provide at any time before the appraiser's completion of  
 1978 a real estate appraisal activity:

2072 (vii) issue a cease and desist order; or  
 2073 (viii) do a combination of Subsections (1)(b)(i) through (vii).

2074 (2) Subsection (1) applies if the board finds, with the concurrence of the division, that a  
 2075 person has engaged in, is attempting to, or has attempted to engage in:

2076 (a) an act that violates this chapter;

2077 (b) an act that violates a rule made [~~by the board~~] under this chapter;

2078 (c) procuring a registration for the person or another person by fraud,  
 2079 misrepresentation, or deceit;

2080 (d) paying money or attempting to pay money other than a fee provided for by this  
 2081 chapter to an employee of the division to procure a registration under this chapter;

2082 (e) an act or omission in the business of an appraisal management company that  
 2083 constitutes dishonesty, fraud, or misrepresentation;

2084 (f) unprofessional conduct as defined by statute or rule; or

2085 (g) other conduct that constitutes dishonest dealing.

2086 (3) (a) If the board, with the concurrence of the director, issues an order that orders a  
 2087 fine or remedial education as part of a disciplinary action against a person, including a  
 2088 stipulation and order, the board shall state in the order the deadline by which the person shall  
 2089 comply with the fine or remedial education requirements.

2090 (b) If a person fails to comply by the stated deadline, the person's registration shall be  
 2091 immediately and automatically suspended:

2092 (i) beginning the day specified in the order as the deadline for compliance; and

2093 (ii) ending the day on which the person complies in full with the order.

2094 (c) If a person fails to pay a fine required by an order, the division shall begin a  
 2095 collection process:

2096 (i) established by the division by rule made in accordance with Title 63G, Chapter 3,  
 2097 Utah Administrative Rulemaking Act; and

2098 (ii) subject to Title 63A, Chapter 8, Office of State Debt Collection.

2098a **Ĥ→ (4) To the extent permitted by federal law, the board, with the concurrence of the**  
 2098b **division, may bring a disciplinary proceeding under this chapter for a violation of 15 U.S.C.**  
 2098c **Sec. 1639e(i). ←Ĥ**

2099 ~~[(3)]~~ **Ĥ→ [(4)] (5) ←Ĥ** A member of the board is immune from a civil action or  
 2099a criminal prosecution

2100 for a disciplinary proceeding under this chapter if:

2101 (a) the action is taken without malicious intent; and

2102 (b) in the reasonable belief that the action taken was taken pursuant to the powers and