

DIVISION OF REAL ESTATE AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Calvin R. Musselman

Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions of Title 61, Securities Division - Real Estate Division, regarding real estate.

Highlighted Provisions:

This bill:

- ▶ removes an unused definition;
- ▶ permits the Division of Real Estate to suspend or revoke the registration of an appraisal management company registered in the state if the company fails to pay certain fees;
- ▶ permits disciplinary action, under certain conditions, against an entity for a violation of statute made while the person was registered, or should have been registered, as an appraisal management company;
- ▶ permits the Division of Real Estate, under certain conditions, to enter into a reciprocal licensing agreement with another jurisdiction for a principal broker, associate broker, or sales agent license;
- ▶ amends the rulemaking requirements of the Real Estate Commission;
- ▶ amends registration requirements under the Real Estate Licensing and Practices Act;
- ▶ expands the membership of the Real Estate Appraiser Licensing and Certification Board;
- ▶ changes quorum requirements for the Real Estate Appraiser Licensing and Certification Board; and
- ▶ makes technical and conforming changes.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

- 36 **61-2-203**, as last amended by Laws of Utah 2019, Chapter 337
- 37 **61-2e-102**, as last amended by Laws of Utah 2018, Chapter 213
- 38 **61-2e-205**, as enacted by Laws of Utah 2018, Chapter 213
- 39 **61-2e-402**, as last amended by Laws of Utah 2012, Chapter 369
- 40 **61-2f-103**, as last amended by Laws of Utah 2020, Chapters 352 and 373
- 41 **61-2f-203**, as last amended by Laws of Utah 2016, Chapter 25
- 42 **61-2f-206**, as last amended by Laws of Utah 2017, Chapter 182
- 43 **61-2g-204**, as last amended by Laws of Utah 2020, Chapters 352 and 373



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

46 Section 1. Section **61-2-203** is amended to read:

47 **61-2-203. Adjudicative proceedings -- Citation authority.**

48 (1) The division shall comply with Title 63G, Chapter 4, Administrative Procedures
49 Act, in an adjudicative proceeding under a chapter the division administers.

50 (2) The division may initiate an adjudicative proceeding through:

- 51 (a) a notice of agency action; or
- 52 (b) a notice of formal or informal proceeding.

53 (3) The provisions of Title 63G, Chapter 4, Administrative Procedures Act, do not
54 apply to the issuance of a citation under Subsection (4), unless a licensee or another person
55 authorized by law to contest the validity or correctness of a citation commences an adjudicative
56 proceeding contesting the citation.

57 (4) In addition to any other statutory penalty for a violation related to an occupation or

- 58 profession regulated under this title, the division may issue a citation to a person who, upon
59 inspection or investigation, the division concludes to have violated:
- 60 (a) Subsection 61-2c-201(1), which requires licensure;
 - 61 (b) Subsection 61-2c-201(4), which requires [entity] licensure;
 - 62 (c) Subsection 61-2c-205(3), which requires notification of a change in specified
63 information regarding a licensee;
 - 64 (d) Subsection 61-2c-205(4), which requires notification of a specified legal action;
 - 65 (e) Subsection 61-2c-301(1)(g), which prohibits failing to respond to the division
66 within the required time period;
 - 67 (f) Subsection 61-2c-301(1)(h), which prohibits making a false representation to the
68 division;
 - 69 (g) Subsection 61-2c-301(1)(i), which prohibits taking a dual role in a transaction;
 - 70 (h) Subsection 61-2c-301(1)(l), which prohibits engaging in false or misleading
71 advertising;
 - 72 (i) Subsection 61-2c-301(1)(t), which prohibits advertising the ability to do licensed
73 work if unlicensed;
 - 74 (j) Subsection 61-2c-302(5), which requires a mortgage entity to create and file a
75 quarterly report of condition;
 - 76 (k) Subsection 61-2e-201(1), which requires registration;
 - 77 (l) Subsection 61-2e-203(4), which requires a notification of a change in ownership;
 - 78 (m) Subsection 61-2e-307(1)(c), which prohibits use of an unregistered fictitious name;
 - 79 (n) Subsection 61-2e-401(1)(c), which prohibits failure to respond to a division
80 request;
 - 81 (o) Subsection 61-2f-201(1), which requires licensure;
 - 82 (p) Subsection 61-2f-206(1), which requires [entity] registration;
 - 83 (q) Subsection 61-2f-301(1), which requires notification of a specified legal action;
 - 84 (r) Subsection 61-2f-401(1)(a), which prohibits making a substantial misrepresentation;
 - 85 (s) Subsection 61-2f-401(3), which prohibits undertaking real estate while not affiliated

86 with a principal broker;

87 (t) Subsection ~~61-2f-401~~(9), which prohibits failing to keep specified records and
88 prohibits failing to make the specified records available for division inspection;

89 (u) Subsection [~~61-2f-401~~(13)] 61-2f-401(12), which prohibits false, misleading, or
90 deceptive advertising;

91 (v) Subsection [~~61-2f-401~~(20)] 61-2f-401(18), which prohibits failing to respond to a
92 division request;

93 (w) Subsection ~~61-2g-301~~(1), which requires licensure;

94 (x) Subsection ~~61-2g-405~~(3), which requires making records required to be maintained
95 available to the division;

96 (y) Subsection ~~61-2g-501~~(2)(c), which requires a person to respond to a division
97 request in an investigation within 10 days after the day on which the request is served;

98 (z) Subsection ~~61-2g-502~~(2)(f), which prohibits using a nonregistered fictitious name;

99 (aa) a rule made pursuant to any Subsection listed in this Subsection (4);

100 (bb) an order of the division; or

101 (cc) an order of the commission or board that oversees the person's profession.

102 (5) (a) In accordance with Subsection (10), the division may assess a fine against a
103 person for a violation of a provision listed in Subsection (4), as evidenced by:

104 (i) an uncontested citation;

105 (ii) a stipulated settlement; or

106 (iii) a finding of a violation in an adjudicative proceeding.

107 (b) The division may, in addition to or in lieu of a fine under Subsection (5)(a), order
108 the person to cease and desist from an activity that violates a provision listed in Subsection (4).

109 (6) Except as provided in Subsection (8)(d), the division may not use a citation to
110 effect a license:

111 (a) denial;

112 (b) probation;

113 (c) suspension; or

- 114 (d) revocation.
- 115 (7) (a) A citation issued by the division shall:
- 116 (i) be in writing;
- 117 (ii) describe with particularity the nature of the violation, including a reference to the
- 118 provision of the statute, rule, or order alleged to have been violated;
- 119 (iii) clearly state that the recipient must notify the division in writing within 20
- 120 calendar days after the day on which the citation is served if the recipient wishes to contest the
- 121 citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and
- 122 (iv) clearly explain the consequences of failure to timely contest the citation or to make
- 123 payment of a fine assessed by the citation within the time period specified in the citation.
- 124 (b) The division may issue a notice in lieu of a citation.
- 125 (8) (a) A citation becomes final:
- 126 (i) if within 20 calendar days after the day on which the citation is served, the person to
- 127 whom the citation was issued fails to request a hearing to contest the citation; or
- 128 (ii) if the director or the director's designee conducts a hearing pursuant to a timely
- 129 request for a hearing and issues an order finding that a violation has occurred.
- 130 (b) The division may extend, for cause, the 20-day period to contest a citation.
- 131 (c) A citation that becomes the final order of the division due to a person's failure to
- 132 timely request a hearing is not subject to further agency review.
- 133 (d) (i) The division may refuse to issue, refuse to renew, suspend, revoke, or place on
- 134 probation the license of a licensee who fails to comply with a citation after the citation
- 135 becomes final.
- 136 (ii) The failure of a license applicant to comply with a citation after the citation
- 137 becomes final is a ground for denial of the license application.
- 138 (9) (a) The division may not issue a citation under this section after the expiration of
- 139 one year after the day on which the violation occurs.
- 140 (b) The division may issue a notice to address a violation that is outside of the one-year
- 141 citation period.

142 (10) The director or the director's designee shall assess a fine with a citation in an
143 amount that is no more than:

144 (a) for a first offense, \$1,000;

145 (b) for a second offense, \$2,000; and

146 (c) for each offense subsequent to a second offense, \$2,000 for each day of continued
147 offense.

148 (11) (a) An action for a first or second offense for which the division has not issued a
149 final order does not preclude the division from initiating a subsequent action for a second or
150 subsequent offense while the preceding action is pending.

151 (b) The final order on a subsequent action is considered a second or subsequent
152 offense, respectively, provided the preceding action resulted in a first or second offense,
153 respectively.

154 (12) (a) If a person does not pay a penalty, the director may collect the unpaid penalty
155 by:

156 (i) referring the matter to a collection agency; or

157 (ii) bringing an action in the district court of the county:

158 (A) where the person resides; or

159 (B) where the office of the director is located.

160 (b) A county attorney or the attorney general of the state shall provide legal services to
161 the director in an action to collect the penalty.

162 (c) A court may award reasonable attorney fees and costs to the division in an action
163 the division brings to enforce the provisions of this section.

164 Section 2. Section **61-2e-102** is amended to read:

165 **61-2e-102. Definitions.**

166 As used in this chapter:

167 (1) "Applicable appraisal standards" means:

168 (a) the Uniform Standards for Professional Appraisal Practice:

169 (i) published by the Appraisal Foundation; and

- 170 (ii) as adopted under Section 61-2g-403;
- 171 (b) Chapter 2g, Real Estate Appraiser Licensing and Certification Act; and
- 172 (c) rules made by the board under Chapter 2g, Real Estate Appraiser Licensing and
- 173 Certification Act.
- 174 (2) "Appraisal" [~~is as~~] means the same as that term is defined in Section 61-2g-102.
- 175 (3) "Appraisal foundation" [~~is as~~] means the same as that term is defined in Section
- 176 61-2g-102.
- 177 (4) "Appraisal management company" means a third party authorized by one of the
- 178 following persons to broker an appraisal of a dwelling that is collateral for a residential
- 179 mortgage loan:
 - 180 (a) a creditor; or
 - 181 (b) an underwriter of, or other principal in, a secondary mortgage market.
- 182 (5) "Appraisal management service" means:
 - 183 (a) recruiting, selecting, or retaining an appraiser;
 - 184 (b) contracting with an appraiser to perform a real estate appraisal activity for a client;
 - 185 (c) managing the appraisal process, including one or more of the following
 - 186 administrative services:
 - 187 (i) receiving an appraisal order or an appraisal report;
 - 188 (ii) submitting a completed appraisal report to a client;
 - 189 (iii) collecting a fee from a client for a service provided; or
 - 190 (iv) paying an appraiser for a real estate appraisal activity; or
 - 191 (d) reviewing or verifying the work of an appraiser.
- 192 (6) "Appraisal report" [~~is as~~] means the same as that term is defined in Section
- 193 61-2g-102.
- 194 (7) "Appraisal Subcommittee" means the Appraisal Subcommittee of the Federal
- 195 Financial Institutions Examination Council.
- 196 (8) "Appraiser" means an individual who engages in a real estate appraisal activity.
- 197 (9) (a) "Appraiser panel" means a network, list, or roster of appraisers who are:

- 198 (i) licensed or certified in a state, territory, or the District of Columbia; and
199 (ii) approved by an appraisal management company to perform appraisals as
200 independent contractors for the appraisal management company.
- 201 (b) "Appraiser panel" includes an appraiser whom the appraisal management company
202 has:
- 203 (i) accepted for consideration for a future appraisal assignment:
204 (A) in a residential mortgage loan transaction; or
205 (B) for a secondary mortgage market participant in connection with a residential
206 mortgage loan transaction; or
- 207 (ii) engaged to perform an appraisal:
208 (A) in a residential mortgage loan transaction; or
209 (B) for a secondary mortgage market participant in connection with a residential
210 mortgage loan transaction.
- 211 (10) "Board" means the Real Estate Appraiser Licensing and Certification Board that is
212 created in Section [61-2g-204](#).
- 213 (11) "Client" means a person that enters into an agreement with an appraisal
214 management company for the performance of a real estate appraisal activity.
- 215 (12) "Concurrence" means that the entities that are given a concurring role must jointly
216 agree before an action may be taken.
- 217 (13) "Controlling person" means:
218 (a) an owner, officer, or director of an entity seeking to offer appraisal management
219 services;
220 (b) an individual employed, appointed, or authorized by an appraisal management
221 company who has the authority to:
222 (i) enter into a contractual relationship with a client for the performance of an appraisal
223 management service; and
224 (ii) enter into an agreement with an appraiser for the performance of a real estate
225 appraisal activity; or

226 (c) a person who possesses, directly or indirectly, the power to direct or cause the
227 direction of the management or policies of an appraisal management company.

228 (14) "Creditor" means:

229 (a) a person who regularly extends credit that, under a written agreement, is subject to a
230 finance charge or is payable in more than four installments, not including any down payment;
231 and

232 (b) a person to whom the obligation described in Subsection (14)(a) is initially payable,
233 either on the face of the note or contract, or by agreement when there is no note or contract.

234 (15) "Director" means the director of the division.

235 (16) "Division" means the Division of Real Estate, created in Section [61-2-201](#), of the
236 Department of Commerce.

237 (17) "Dwelling" means a residential structure that contains up to four units, regardless
238 of whether the structure is attached to real property, including:

239 (a) an individual condominium unit;

240 (b) a cooperative unit;

241 (c) a mobile home; or

242 (d) a trailer, if the trailer is used as a residence.

243 (18) "Entity" means:

244 (a) a corporation;

245 (b) a partnership;

246 (c) a sole proprietorship;

247 (d) a limited liability company;

248 (e) another business entity; or

249 (f) a subsidiary or unit of an entity described in Subsections (18)(a) through (e).

250 (19) "Federally regulated appraisal management company" means an appraisal
251 management company that is:

252 (a) owned and controlled by an insured depository institution, as defined in 12 U.S.C.
253 Sec. 1813; and

254 (b) regulated by:

255 (i) the Office of the Comptroller of the Currency;

256 (ii) the Board of Governors of the Federal Reserve System; or

257 (iii) the Federal Deposit Insurance Corporation.

258 (20) "Independent contractor" means an appraiser whom an appraisal management

259 company treats as an independent contractor for purposes of federal income taxation.

260 ~~[(21) "National Registry" means the database maintained by the Appraisal~~

261 ~~Subcommittee containing information regarding appraisal management companies that are:]~~

262 ~~[(a) licensed or certified by a state, territory, or the District of Columbia; or]~~

263 ~~[(b) federally regulated appraisal management companies.]~~

264 ~~[(22)]~~ (21) "Person" means an individual or an entity.

265 ~~[(23)]~~ (22) "Person who regularly extends credit" means a person who:

266 (a) extends credit, other than credit subject to the requirements of 12 C.F.R. Sec.

267 1026.32, to a person who has been extended credit for transactions secured by a dwelling more

268 than five times in:

269 (i) the preceding calendar year; or

270 (ii) the current calendar year;

271 (b) originates two or more credit extensions that are subject to the requirements of 12

272 C.F.R. Sec. 1026.32; or

273 (c) originates through a mortgage broker a credit extension that is subject to the

274 requirements of 12 C.F.R. Sec. 1026.32.

275 ~~[(24)]~~ (23) "Real estate appraisal activity" ~~[is as]~~ means the same as that term is

276 defined in Section 61-2g-102.

277 ~~[(25)]~~ (24) "Residential mortgage loan" means the same as that term is defined in

278 Section 61-2c-102.

279 ~~[(26)]~~ (25) (a) "Secondary mortgage market participant" means:

280 (i) a guarantor or insurer of a mortgage-backed security; or

281 (ii) an underwriter or insurer of a mortgage-backed security.

282 (b) "Secondary mortgage market participant" includes an individual investor in a
283 mortgage-backed security, if the investor is also the guarantor, insurer, underwriter, or issuer of
284 the mortgage-backed security.

285 ~~[(27)]~~ (26) "Territory" means any of the following United States territories:

- 286 (a) Guam;
- 287 (b) Northern Mariana Islands;
- 288 (c) Puerto Rico; or
- 289 (d) United States Virgin Islands.

290 Section 3. Section **61-2e-205** is amended to read:

291 **61-2e-205. Division service fees -- Federal registry fees.**

292 (1) The division, with the concurrence of the board, shall establish and collect fees, in
293 accordance with Section **63J-1-504**, for services the division renders to carry out this chapter.

294 (2) (a) The division shall:

295 ~~[(a)]~~ (i) collect the annual registry fee established by the Appraisal Subcommittee
296 from:

297 ~~[(i)]~~ (A) each appraisal management company registered under this chapter; and

298 ~~[(ii)]~~ (B) each federally regulated appraisal management company; and

299 ~~[(b)]~~ (ii) transfer the fees collected under Subsection (2)(a) to the Appraisal
300 Subcommittee on a monthly basis.

301 (b) If an appraisal management company registered under this chapter fails to pay the
302 annual registry fee established by the Appraisal Subcommittee, the division may suspend or
303 revoke the appraisal management company's registration.

304 (3) If an appraisal management company pays a fee or cost to the division with a
305 negotiable instrument or any other payment method that is not honored, the division:

- 306 (a) may void the transaction for which the payment is submitted;
- 307 (b) may reverse the transaction, if the division does not receive full payment of the
308 applicable fee or cost; and
- 309 (c) shall suspend the appraisal management company's registration:

310 (i) beginning the day on which the payment is due; and

311 (ii) ending the day on which payment is made in full.

312 Section 4. Section **61-2e-402** is amended to read:

313 **61-2e-402. Enforcement -- Immunity for board.**

314 (1) (a) The board may order disciplinary action, with the concurrence of the division,
315 against:

316 (i) an entity registered under this chapter;

317 (ii) an entity required to be registered under this chapter; or

318 (iii) a controlling person of an entity described in this Subsection (1)(a).

319 (b) The board may order disciplinary action, with the concurrence of the division,

320 against an entity, or controlling person of an entity, who is not registered under this chapter, if
321 the entity violated a provision of this chapter or rule made under this chapter:

322 (i) within four years before the day on which the division commences disciplinary
323 action; and

324 (ii) during a period in which:

325 (A) the provision or rule was in effect; and

326 (B) the entity was registered or required to be registered under this chapter.

327 ~~[(b)]~~ (c) If the board, with the concurrence of the division, makes a finding described in
328 Subsection (2) pursuant to an adjudicative proceeding conducted in accordance with Title 63G,
329 Chapter 4, Administrative Procedures Act, the board, with the concurrence of the division,
330 may:

331 (i) revoke, suspend, or place an entity's registration on probation;

332 (ii) deny an entity's original registration;

333 (iii) deny an entity's renewal registration;

334 (iv) in the case of denial or revocation of a registration, set a waiting period for an
335 applicant to apply for a registration under this chapter;

336 (v) order remedial education;

337 (vi) impose a civil penalty upon a person not to exceed the greater of:

- 338 (A) \$5,000 for each violation; or
- 339 (B) the amount of any gain or economic benefit from a violation;
- 340 (vii) issue a cease and desist order; or
- 341 (viii) do a combination of Subsections [~~(1)(b)(i)~~] (1)(c)(i) through (vii).
- 342 (2) Subsection (1) applies if the board finds, with the concurrence of the division, that a
- 343 person has engaged in, is attempting to, or has attempted to engage in:
- 344 (a) an act that violates this chapter;
- 345 (b) an act that violates a rule made under this chapter;
- 346 (c) procuring a registration for the person or another person by fraud,
- 347 misrepresentation, or deceit;
- 348 (d) paying money or attempting to pay money other than a fee provided for by this
- 349 chapter to an employee of the division to procure a registration under this chapter;
- 350 (e) an act or omission in the business of an appraisal management company that
- 351 constitutes dishonesty, fraud, or misrepresentation;
- 352 (f) unprofessional conduct as defined by statute or rule; or
- 353 (g) other conduct that constitutes dishonest dealing.
- 354 (3) (a) If the board, with the concurrence of the director, issues an order that orders a
- 355 fine or remedial education as part of a disciplinary action against a person, including a
- 356 stipulation and order, the board shall state in the order the deadline by which the person shall
- 357 comply with the fine or remedial education requirements.
- 358 (b) If a person fails to comply by the stated deadline, the person's registration shall be
- 359 immediately and automatically suspended:
- 360 (i) beginning the day specified in the order as the deadline for compliance; and
- 361 (ii) ending the day on which the person complies in full with the order.
- 362 (c) If a person fails to pay a fine required by an order, the division shall begin a
- 363 collection process:
- 364 (i) established by the division by rule made in accordance with Title 63G, Chapter 3,
- 365 Utah Administrative Rulemaking Act; and

366 (ii) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.

367 (4) To the extent permitted by federal law, the board, with the concurrence of the
368 division, may bring a disciplinary proceeding under this chapter for a violation of 15 U.S.C.
369 Sec. 1639e(i).

370 (5) A member of the board is immune from a civil action or criminal prosecution for a
371 disciplinary proceeding under this chapter if:

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

373 (b) in the reasonable belief that the action taken was taken pursuant to the powers and
374 duties vested in a member of the board under this chapter.

375 Section 5. Section **61-2f-103** is amended to read:

376 **61-2f-103. Real Estate Commission.**

377 (1) There is created within the division a Real Estate Commission.

378 (2) The commission shall:

379 (a) subject to concurrence by the division and in accordance with Title 63G, Chapter 3,
380 Utah Administrative Rulemaking Act, make rules for the administration of this chapter that are
381 not inconsistent with this chapter, including:

382 (i) licensing of:

383 (A) a principal broker;

384 (B) an associate broker; and

385 (C) a sales agent;

386 (ii) registration of:

387 (A) an entity; [~~and~~]

388 (B) an assumed name under which a person conducts business;

389 [~~(B)~~] (C) a branch office; and

390 (D) a property management company;

391 (iii) prelicensing and postlicensing education curricula;

392 (iv) examination procedures;

393 (v) the certification and conduct of:

- 394 (A) a real estate school;
- 395 (B) a course provider; or
- 396 (C) an instructor;
- 397 (vi) proper handling of money received by a licensee under this chapter;
- 398 (vii) brokerage office procedures and recordkeeping requirements;
- 399 (viii) property management;
- 400 (ix) standards of conduct for a licensee under this chapter; and
- 401 (x) if the commission, with the concurrence of the division, determines necessary, a
- 402 rule as provided in Subsection 61-2f-306(3) regarding a legal form;
- 403 (b) establish, with the concurrence of the division, a fee provided for in this chapter,
- 404 except a fee imposed under Part 5, Real Estate Education, Research, and Recovery Fund Act;
- 405 (c) conduct an administrative hearing not delegated by the commission to an
- 406 administrative law judge or the division relating to the:
 - 407 (i) licensing of an applicant;
 - 408 (ii) conduct of a licensee;
 - 409 (iii) the certification or conduct of a real estate school, course provider, or instructor
 - 410 regulated under this chapter; or
 - 411 (iv) violation of this chapter by any person;
 - 412 (d) with the concurrence of the director, impose a sanction as provided in Section
 - 413 61-2f-404;
 - 414 (e) advise the director on the administration and enforcement of a matter affecting the
 - 415 division and the real estate sales and property management industries;
 - 416 (f) advise the director on matters affecting the division budget;
 - 417 (g) advise and assist the director in conducting real estate seminars; and
 - 418 (h) perform other duties as provided by this chapter.
- 419 ~~[(2)]~~ (3) (a) Except as provided in Subsection ~~[(2)]~~ (3)(b), a state entity may not,
- 420 without the concurrence of the commission, make a rule that changes the rights, duties, or
- 421 obligations of buyers, sellers, or persons licensed under this chapter in relation to a real estate

422 transaction between private parties.

423 (b) Subsection [~~(2)~~] (3)(a) does not apply to a rule made:

424 (i) under Title 31A, Insurance Code, or Title 7, Financial Institutions Act; or

425 (ii) by the Department of Commerce or any division or other rulemaking body within
426 the Department of Commerce.

427 [~~(3)~~] (4) (a) The commission shall be comprised of five members appointed by the
428 governor and approved by the Senate in accordance with Title 63G, Chapter 24, Part 2,
429 Vacancies.

430 (b) Four of the commission members shall:

431 (i) have at least five years' experience in the real estate business; and

432 (ii) hold an active principal broker, associate broker, or sales agent license.

433 (c) One commission member shall be a member of the general public.

434 (d) The governor may not appoint a commission member described in Subsection [~~(3)~~]
435 (4)(b) who, at the time of appointment, resides in the same county in the state as another
436 commission member.

437 (e) At least one commission member described in Subsection [~~(3)~~] (4)(b) shall at the
438 time of an appointment reside in a county that is not a county of the first or second class.

439 [~~(4)~~] (5) (a) Except as required by Subsection [~~(4)~~] (5)(b), as terms of current
440 commission members expire, the governor shall appoint each new member or reappointed
441 member to a four-year term ending June 30.

442 (b) Notwithstanding the requirements of Subsection [~~(4)~~] (5)(a), the governor shall, at
443 the time of appointment or reappointment, adjust the length of terms to ensure that the terms of
444 commission members are staggered so that approximately half of the commission is appointed
445 every two years.

446 (c) Upon the expiration of the term of a member of the commission, the member of the
447 commission shall continue to hold office until a successor is appointed and qualified.

448 (d) A commission member may not serve more than two consecutive terms.

449 (e) Members of the commission shall annually select one member to serve as chair.

450 ~~[(5)]~~ (6) When a vacancy occurs in the membership for any reason, the governor, with
451 the advice and consent of the Senate, shall appoint a replacement for the unexpired term.

452 ~~[(6)]~~ (7) A member may not receive compensation or benefits for the member's service,
453 but may receive per diem and travel expenses in accordance with:

454 (a) Section 63A-3-106;

455 (b) Section 63A-3-107; and

456 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
457 63A-3-107.

458 ~~[(7)]~~ (8) (a) The commission shall meet at least monthly.

459 (b) The director may call additional meetings:

460 (i) at the director's discretion;

461 (ii) upon the request of the chair; or

462 (iii) upon the written request of three or more commission members.

463 ~~[(8)]~~ (9) Three members of the commission constitute a quorum for the transaction of
464 business.

465 ~~[(9)]~~ (10) A member of the commission shall comply with the conflict of interest
466 provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

467 Section 6. Section 61-2f-203 is amended to read:

468 **61-2f-203. Licensing requirements.**

469 (1) (a) (i) The division shall determine whether an applicant with a criminal history
470 qualifies for licensure.

471 (ii) If the division, acting under Subsection (1)(a)(i), denies or restricts a license or
472 places a license on probation, the applicant may petition the commission for de novo review of
473 the application.

474 (b) Except as provided in Subsection ~~[(5)]~~ (6), the commission shall determine all
475 other qualifications and requirements of an applicant for:

476 (i) a principal broker license;

477 (ii) an associate broker license; or

478 (iii) a sales agent license.

479 (c) The division, with the concurrence of the commission, shall require and pass upon
480 proof necessary to determine the honesty, integrity, truthfulness, reputation, and competency of
481 each applicant for an initial license or for renewal of an existing license.

482 (d) (i) The division, with the concurrence of the commission, shall require an applicant
483 for:

484 (A) a sales agent license to complete an approved educational program consisting of
485 the number of hours designated by rule made by the commission with the concurrence of the
486 division, except that the rule may not require less than 120 hours; and

487 (B) an associate broker or a principal broker license to complete an approved
488 educational program consisting of the number of hours designated by rule made by the
489 commission with the concurrence of the division, except that the rule may not require less than
490 120 hours.

491 (ii) An hour required by this section means 50 minutes of instruction in each 60
492 minutes.

493 (iii) The maximum number of program hours available to an individual is eight hours
494 per day.

495 (e) The division, with the concurrence of the commission, shall require the applicant to
496 pass an examination approved by the commission covering:

497 (i) the fundamentals of:

498 (A) the English language;

499 (B) arithmetic;

500 (C) bookkeeping; and

501 (D) real estate principles and practices;

502 (ii) this chapter;

503 (iii) the rules established by the commission with the concurrence of the division; and

504 (iv) any other aspect of Utah real estate license law considered appropriate.

505 (f) (i) Three years' full-time experience as a sales agent or its equivalent is required

506 before an applicant may apply for, and secure a principal broker or associate broker license in
507 this state.

508 (ii) The commission shall establish by rule made in accordance with Title 63G,
509 Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division, the
510 criteria by which the commission will accept experience or special education in similar fields
511 of business in lieu of the three years' experience.

512 (2) (a) The division, with the concurrence of the commission, may require an applicant
513 to furnish a sworn statement setting forth evidence satisfactory to the division of the applicant's
514 reputation and competency as set forth by rule.

515 (b) The division shall require an applicant to provide the applicant's social security
516 number, which is a private record under Subsection 63G-2-302(1)(i).

517 (3) (a) An individual who is not a resident of this state may be licensed in this state if
518 the person complies with this chapter.

519 (b) An individual who is not a resident of this state may be licensed as an associate
520 broker or sales agent in this state by:

521 (i) complying with this chapter; and

522 (ii) being employed or engaged as an independent contractor by or on behalf of a
523 principal broker who is licensed in this state, regardless of whether the principal broker is a
524 resident of this state.

525 (4) The division, with the concurrence of the commission, may enter into a reciprocal
526 licensing agreement with another jurisdiction for the licensure of a principal broker, an
527 associate broker, or a sales agent, if the jurisdiction's requirements and standards for the license
528 are substantially similar to those of this state.

529 [~~4~~] (5) (a) The division and commission shall treat an application to be relicensed of
530 an applicant whose real estate license is revoked as an original application.

531 (b) In the case of an applicant for a new license as a principal broker or associate
532 broker, the applicant is not entitled to credit for experience gained before the revocation of a
533 real estate license.

534 ~~[(5)]~~ (6) (a) Notwithstanding Subsection (1)(b), the commission may delegate to the
535 division the authority to:

- 536 (i) review a class or category of applications for initial or renewed licenses;
537 (ii) determine whether an applicant meets the licensing criteria in Subsection (1); and
538 (iii) approve or deny a license application without concurrence by the commission.

539 (b) (i) If the commission delegates to the division the authority to approve or deny an
540 application without concurrence by the commission and the division denies an application for
541 licensure, the applicant who is denied licensure may petition the commission for de novo
542 review of the application.

543 (ii) An applicant who is denied licensure pursuant to this Subsection ~~[(5)]~~ (6) may seek
544 agency review by the executive director only after the commission has reviewed the division's
545 denial of the applicant's application.

546 Section 7. Section **61-2f-206** is amended to read:

547 **61-2f-206. Registration of person or branch office -- Certification of education**
548 **providers and courses -- Specialized licenses.**

549 (1) (a) ~~[An entity]~~ A person may not engage in an activity described in Section
550 **61-2f-201**, unless ~~[it]~~ the person is registered with the division.

551 (b) To register with the division under this Subsection (1), ~~[an entity]~~ a person shall
552 submit to the division:

- 553 (i) an application in a form required by the division;
554 (ii) evidence of an affiliation with a principal broker;
555 (iii) evidence that the ~~[entity]~~ person is registered and in good standing with the
556 Division of Corporations and Commercial Code; and

557 (iv) a registration fee established by the commission with the concurrence of the
558 division under Section **63J-1-504**.

559 (c) The division may terminate ~~[an entity's]~~ a person's registration if:

- 560 (i) the ~~[entity's]~~ person's registration with the Division of Corporations and
561 Commercial Code has been expired for at least three years; and

562 (ii) the [entity's] person's license with the division has been inactive for at least three
563 years.

564 (2) (a) A principal broker shall register with the division each of the principal broker's
565 branch offices.

566 (b) To register a branch office with the division under this Subsection (2), a principal
567 broker shall submit to the division:

568 (i) an application in a form required by the division; and

569 (ii) a registration fee established by the commission with the concurrence of the
570 division under Section [63J-1-504](#).

571 (3) (a) In accordance with rules made by the commission with the concurrence of the
572 division and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
573 the division shall certify:

574 (i) a real estate school;

575 (ii) a course provider; or

576 (iii) an instructor.

577 (b) In accordance with rules made by the commission in accordance with Title 63G,
578 Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division, the
579 division shall certify a continuing education course that is required under this chapter.

580 (4) Except as provided [by rule] under this chapter or by rule the commission makes in
581 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a principal broker
582 may not be responsible for more than one registered [entity] person at the same time.

583 ~~[(5) A principal broker may simultaneously supervise one main office and up to two~~
584 ~~additional branch offices.]~~

585 ~~[(6) A branch broker may simultaneously supervise up to three branch offices.]~~

586 (5) A principal broker:

587 (a) shall exercise active and reasonable supervision of the principal broker's main
588 office in accordance with this chapter and rules the commission makes in accordance with Title
589 63G, Chapter 3, Utah Administrative Rulemaking Act; and

590 (b) may supervise a branch office affiliated with the principal broker at the same time
591 the principal broker exercises the supervision required under Subsection (5)(a).

592 (6) (a) A principal broker may designate a branch broker to supervise a branch office
593 affiliated with the principal broker.

594 (b) A branch broker shall exercise active and reasonable supervision, in accordance
595 with this chapter and rules the commission makes in accordance with Title 63G, Chapter 3,
596 Utah Administrative Rulemaking Act, of each branch office the principal broker designates the
597 branch broker to supervise.

598 (7) (a) In addition to issuing a principal broker license, associate broker license, or
599 sales agent license authorizing the performance of an act set forth in Section 61-2f-201, the
600 division may issue a specialized sales license or specialized property management license with
601 the scope of practice limited to the specialty.

602 (b) An individual may hold a specialized license in addition to a license as a principal
603 broker, associate broker, or a sales agent.

604 (c) A sales agent who is affiliated with a dual broker may act as a property
605 management sales agent if:

606 (i) the dual broker designates the sales agent as a property management sales agent; and

607 (ii) the sales agent pays to the division a property management sales agent designation
608 fee in an amount determined by the division in accordance with Section 63J-1-504.

609 (d) A property management sales agent may simultaneously provide both property
610 management services and real estate sales services under the supervision of a dual broker as
611 provided by the commission with the concurrence of the division by rule made in accordance
612 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

613 (8) The commission may determine, by rule made in accordance with Title 63G,
614 Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division,
615 licensing requirements related to this section for a principal broker, associate broker, sales
616 agent, dual broker, property management sales agent, or for a specialized license described in
617 Subsection (7), including:

- 618 (a) prelicensing and postlicensing education requirements;
- 619 (b) examination requirements;
- 620 (c) affiliation with real estate brokerages or property management companies;
- 621 (d) property management sales agent:
- 622 (i) designation procedures;
- 623 (ii) allowable scope of practice; and
- 624 (iii) division fees;
- 625 (e) what constitutes active and reasonable supervision for:
- 626 (i) a principal broker when supervising a branch broker or sales agent; and
- 627 (ii) a branch broker when supervising a sales agent; and
- 628 (f) other licensing procedures.

629 Section 8. Section **61-2g-204** is amended to read:

630 **61-2g-204. Real Estate Appraiser Licensing and Certification Board.**

631 (1) (a) There is established a Real Estate Appraiser Licensing and Certification Board
632 that consists of [~~five~~] seven regular members as follows:

633 (i) one state-licensed or state-certified appraiser who may be either a residential or
634 general licensee or certificate holder;

635 (ii) one state-certified residential appraiser;

636 (iii) one state-certified general appraiser;

637 (iv) one member who is certified as either a state-certified residential appraiser or a
638 state-certified general appraiser; [~~and~~]

639 (v) one member who represents an appraisal management company registered in
640 accordance with Chapter 2e, Appraisal Management Company Registration and Regulation
641 Act;

642 (vi) one member:

643 (A) who is licensed or represents a person licensed under Chapter 2c, Utah Residential
644 Mortgage Practices and Licensing Act; or

645 (B) who represents a mortgage lender, as defined in Section [70D-2-102](#), operating in

646 the state in accordance with Title 70D, Chapter 2, Mortgage Lending and Servicing Act; and

647 [~~(v)~~] (vii) one member of the general public.

648 (b) A state-licensed or state-certified appraiser may be appointed as an alternate
649 member of the board.

650 (c) The governor shall appoint all members of the board with the advice and consent of
651 the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

652 (2) (a) Except as required by Subsection (2)(b), as terms of current board members
653 expire, the governor shall appoint each new member or reappointed member to a four-year
654 term beginning on July 1.

655 (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the
656 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
657 board members are staggered so that approximately half of the board is appointed every two
658 years.

659 (c) Upon the expiration of a member's term, a member of the board shall continue to
660 hold office until the appointment and qualification of the member's successor.

661 (d) A person may not serve as a member of the board for more than two consecutive
662 terms.

663 (3) (a) When a vacancy occurs in the membership for any reason, the replacement shall
664 be appointed for the unexpired term.

665 (b) The governor may remove a member for cause.

666 (4) The public member of the board may not be licensed or certified under this chapter.

667 (5) The board shall meet at least quarterly to conduct its business. The division shall
668 give public notice of a board meeting.

669 (6) The members of the board shall elect a chair annually from among the members to
670 preside at board meetings.

671 (7) A member may not receive compensation or benefits for the member's service, but
672 may receive per diem and travel expenses in accordance with:

673 (a) Section [63A-3-106](#);

674 (b) Section 63A-3-107; and

675 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
676 63A-3-107.

677 (8) (a) [~~Three~~] Four members of the board shall constitute a quorum for the transaction
678 of business.

679 (b) If a quorum of members is unavailable for any meeting, the alternate member of the
680 board, if any, shall serve as a regular member of the board for that meeting if with the presence
681 of the alternate member a quorum is present at the meeting.

682 (c) A member of the board shall comply with the conflict of interest provisions
683 described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.